

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR

HOUSE BILL NOS. 1692, 1209, 1405, 1499, 1535 & 1811

95TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, April 22, 2010, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

4506S.11C

AN ACT

To repeal sections 32.056, 58.370, 66.010, 105.726, 193.125, 193.255, 210.145, 210.150, 210.152, 211.031, 339.010, 339.020, 339.030, 339.040, 339.080, 339.110, 339.160, 339.170, 339.710, 452.340, 452.377, 452.430, 454.425, 454.475, 454.515, 454.517, 454.548, 454.557, 454.1003, 455.501, 484.053, 484.350, 494.455, 525.233, 537.296, 542.286, 559.036, and 565.035, RSMo, and to enact in lieu thereof forty-nine new sections relating to the justice system, with penalty provisions and an emergency clause for a certain section.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 32.056, 58.370, 66.010, 105.726, 193.125, 193.255, 210.145, 210.150, 210.152, 211.031, 339.010, 339.020, 339.030, 339.040, 339.080, 339.110, 339.160, 339.170, 339.710, 452.340, 452.377, 452.430, 454.425, 454.475, 454.515, 454.517, 454.548, 454.557, 454.1003, 455.501, 484.053, 484.350, 494.455, 525.233, 537.296, 542.286, 559.036, and 565.035, RSMo, are repealed and forty-nine new sections enacted in lieu thereof, to be known as sections 32.056, 50.567, 58.370, 66.010, 105.726, 193.125, 193.128, 193.132, 193.255, 210.145, 210.150, 210.152, 211.031, 339.010, 339.020, 339.030, 339.040, 339.080, 339.110, 339.160, 339.170, 339.710, 339.845, 452.340, 452.377, 452.430, 454.425, 454.475, 454.515, 454.517, 454.548, 454.557, 454.1003, 455.007, 455.501, 484.053, 484.350, 494.455, 525.233, 537.296, 537.800, 537.802, 537.804, 537.806, 537.808, 537.810, 542.286, 559.036, and 565.035, to read as follows:

32.056. The department of revenue shall not release the home address or

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2 any other information contained in the department's motor vehicle or driver
3 registration records regarding any person who is a county, state or federal parole
4 officer [or who is], a federal pretrial officer [or who is], a peace officer pursuant
5 to section [590.100] **590.010**, RSMo, **a person vested by article V, section 1**
6 **of the Missouri Constitution with the judicial power of the state, a**
7 **member of the federal judiciary**, or a member of [the parole officer's, pretrial
8 officer's or peace officer's] **such person's** immediate family based on a specific
9 request for such information from any person. Any **such** person [who is a county,
10 state or federal parole officer or who is a federal pretrial officer or who is a peace
11 officer pursuant to section 590.100, RSMo,] may notify the department of [such]
12 **their** status and the department shall protect the confidentiality of the records
13 on such a person and his or her immediate family as required by this
14 section. This section shall not prohibit the department from releasing
15 information on a motor registration list pursuant to section 32.055 or from
16 releasing information on any officer who holds a class A, B or C commercial
17 driver's license pursuant to the Motor Carrier Safety Improvement Act of 1999,
18 as amended, 49 U.S.C. 31309.

50.567. In every county with a charter form of government and
2 **with more than six hundred thousand but fewer than seven hundred**
3 **thousand inhabitants the chief governing body of such county shall**
4 **establish a "Jury Service Expense Fund" for the purpose of aiding with**
5 **payment of expenses related to compensation of jurors for jury service**
6 **under the provisions of subsection 4 of section 494.455. The fund shall**
7 **consist of moneys collected in the basic funding for jury service**
8 **calculated at the rate of six dollars per day. The fund shall be**
9 **administered by the court en banc of the judicial circuit and may be**
10 **audited as are all other county funds.**

58.370. The coroner, upon an inquisition found before him of the death of
2 any person by the felony of another, shall speedily inform [one or more associate
3 circuit judges] **the prosecuting attorney** of the proper county[, or some judge
4 or justice of some court of record, and it shall be the duty of such officer forthwith
5 to issue his process for the apprehension and securing for trial of such person] **of**
6 **the result of the inquisition.**

66.010. 1. Any county framing and adopting a charter for its own
2 government under the provisions of section 18, article VI of the constitution of
3 this state, may prosecute and punish violations of its county ordinances in the

4 circuit court of such counties in the manner and to the extent herein provided or
5 in a county municipal court. In addition, the county may prosecute and punish
6 municipal ordinance violations in the county municipal court pursuant to a
7 contract with any municipality within the county. Any county municipal court
8 established pursuant to the provisions of this section shall have jurisdiction over
9 violations of that county's ordinances and the ordinances of municipalities with
10 which the county has a contract to prosecute and punish violations of municipal
11 ordinances of the city. Costs and procedures in any such county municipal court
12 shall be governed by the provisions of law relating to municipal ordinance
13 violations in municipal divisions of circuit courts.

14 2. In any county which has elected to establish a county municipal court
15 pursuant to this section, the judges for such court shall be appointed by the
16 county executive of such county, subject to confirmation by the legislative body
17 of such county in the same manner as confirmation for other county appointed
18 officers. The number of judges appointed, and qualifications for their
19 appointment, shall be established by ordinance of the county.

20 3. The number of divisions of such county municipal court and its term
21 shall be established by ordinance of the county.

22 4. Except in any county with a charter form of government and with more
23 than six hundred thousand but fewer than seven hundred thousand inhabitants,
24 the ordinance of the county shall provide for regular sessions of court in the
25 evening hours after 6:00 p.m. and at locations outside the county seat. In any
26 county with a charter form of government and with more than six hundred
27 thousand but fewer than seven hundred thousand inhabitants, the ordinance of
28 the county may provide for regular sessions of court in the evening hours after
29 6:00 p.m. and at locations outside the county seat.

30 5. Judges of the county municipal court shall be licensed to practice law
31 in this state and shall [be residents of the county in which they serve] **meet any**
32 **other requirements established by ordinance.** Municipal court judges shall
33 not accept or handle cases in their practice of law which are inconsistent with
34 their duties as a municipal court judge and shall not be a judge or prosecutor for
35 any other court.

36 6. In establishing the county municipal court, provisions shall be made
37 for appropriate circumstances whereby defendants may enter not guilty pleas and
38 obtain trial dates by telephone or written communication without personal
39 appearance, or to plead guilty and deliver by mail or electronic transfer or other

40 approved method the specified amount of the fine and costs as otherwise provided
41 by law, within a specified period of time.

42 7. In a county municipal court established pursuant to this section, the
43 county may provide by ordinance for court costs not to exceed the sum which may
44 be provided by municipalities for municipal violations before municipal
45 courts. The county municipal judge may assess costs against a defendant who
46 pleads guilty or is found guilty except in those cases where the defendant is found
47 by the judge to be indigent and unable to pay the costs. The costs authorized in
48 this subsection are in addition to service costs, witness fees and jail costs that
49 may otherwise be authorized to be assessed, but are in lieu of other court or judge
50 costs or fees. Such costs shall be collected by the authorized clerk and deposited
51 into the county treasury.

52 8. Provisions shall be made for recording of proceedings, except that if
53 such proceedings are not recorded, then, in that event, a person aggrieved by a
54 judgment of a traffic judge or commissioner shall have the right of a trial de
55 novo. The procedures for perfecting the right of a trial de novo shall be the same
56 as that provided under sections 512.180 to 512.320, RSMo, except that the
57 provisions of subsection 2 of section 512.180, RSMo, shall not apply to such cases.
58 In the event that such proceedings are recorded, all final decisions of the county
59 municipal court shall be appealable on such record to the appellate court with
60 appropriate jurisdiction.

61 9. Any person charged with the violation of a county ordinance in a county
62 which has established a county municipal court under the provisions of this
63 section shall, upon request, be entitled to a trial by jury before a county
64 municipal court judge. Any jury trial shall be heard with a record being made.

65 10. In the event that a court is established pursuant to this section, the
66 circuit judges of the judicial circuit with jurisdiction within that county may
67 authorize the judges of the county municipal court to act as commissioners to
68 hear in the first instance nonfelony violations of state law involving motor
69 vehicles as provided by local rule.

105.726. 1. Nothing in sections 105.711 to 105.726 shall be construed to
2 broaden the liability of the state of Missouri beyond the provisions of sections
3 537.600 to 537.610, RSMo, nor to abolish or waive any defense at law which
4 might otherwise be available to any agency, officer, or employee of the state of
5 Missouri. Sections 105.711 to 105.726 do not waive the sovereign immunity of the
6 state of Missouri.

7 2. The creation of the state legal expense fund and the payment therefrom
8 of such amounts as may be necessary for the benefit of any person covered
9 thereby are deemed necessary and proper public purposes for which funds of this
10 state may be expended.

11 3. Moneys in the state legal expense fund shall not be available for the
12 payment of any claim or any amount required by any final judgment rendered by
13 a court of competent jurisdiction against a board of police commissioners
14 established under chapter 84, RSMo, including the commissioners, any police
15 officer, notwithstanding sections 84.330 and 84.710, RSMo, or other provisions of
16 law, other employees, agents, representative, or any other individual or entity
17 acting or purporting to act on its or their behalf. Such was the intent of the
18 general assembly in the original enactment of sections 105.711 to 105.726, and
19 it is made express by this section in light of the decision in Wayman Smith, III,
20 et al. v. State of Missouri, 152 S.W.3d 275. [Except that the commissioner of
21 administration shall reimburse from the legal expense fund any board of police
22 commissioners established under chapter 84, RSMo, for liability claims otherwise
23 eligible for payment under section 105.711 paid by such boards on an equal share
24 basis per claim up to a maximum of one million dollars per fiscal year.]

25 4. If the representation of the attorney general is requested by a board of
26 police commissioners, the attorney general [shall] **may** represent, investigate,
27 defend, negotiate, or compromise all claims under sections 105.711 to 105.726 for
28 the board of police commissioners, any police officer, other employees, agents,
29 representatives, or any other individual or entity acting or purporting to act on
30 their behalf. The attorney general may establish procedures by rules
31 promulgated under chapter 536, RSMo, under which claims must be referred for
32 the attorney general's representation. The attorney general and the officials of
33 the city which the police board represents shall meet and negotiate reasonable
34 expenses or charges that will fairly compensate the attorney general and the
35 office of administration for the cost of the representation of the claims under this
36 section.

37 [5. Claims tendered to the attorney general promptly after the claim was
38 asserted as required by section 105.716 and prior to August 28, 2005, may be
39 investigated, defended, negotiated, or compromised by the attorney general and
40 full payments may be made from the state legal expense fund on behalf of the
41 entities and individuals described in this section as a result of the holding in
42 Wayman Smith, III, et al. v. State of Missouri, 152 S.W.3d 275.]

193.125. 1. This section shall be known and may be cited as the "Debbi
2 Daniel Law".

3 2. Except as otherwise provided in subsection 3 of this section, for each
4 adoption decreed by a court of competent jurisdiction in this state, the court shall
5 require the preparation of a certificate of decree of adoption on a form as
6 prescribed or approved by the state registrar. The certificate of decree of
7 adoption shall include such facts as are necessary to locate and identify the
8 certificate of birth of the person adopted, and shall provide information necessary
9 to establish a new certificate of birth of the person adopted and shall identify the
10 court and county of the adoption and be certified by the clerk of the court. The
11 state registrar shall file the original certificate of birth with the certificate of
12 decree of adoption and such file may be opened by the state registrar only upon
13 receipt of a certified copy of an order as decreed by the court of adoption **or in**
14 **accordance with section 193.128.**

15 3. No new certificate of birth shall be established following an adoption
16 by a stepparent if so requested by the adoptive parent or the adoptive stepparent
17 of the child.

18 4. Information necessary to prepare the report of adoption shall be
19 furnished by each petitioner for adoption or the petitioner's attorney. The social
20 welfare agency or any person having knowledge of the facts shall supply the court
21 with such additional information as may be necessary to complete the
22 report. The provision of such information shall be prerequisite to the issuance
23 of a final decree in the matter by the court.

24 5. Whenever an adoption decree is amended or annulled, the clerk of the
25 court shall prepare a report thereof, which shall include such facts as are
26 necessary to identify the original adoption report and the facts amended in the
27 adoption decree as shall be necessary to properly amend the birth record.

28 6. Not later than the fifteenth day of each calendar month or more
29 frequently as directed by the state registrar the clerk of the court shall forward
30 to the state registrar reports of decrees of adoption, annulment of adoption and
31 amendments of decrees of adoption which were entered in the preceding month,
32 together with such related reports as the state registrar shall require.

33 7. When the state registrar shall receive a report of adoption, annulment
34 of adoption, or amendment of a decree of adoption for a person born outside this
35 state, he or she shall forward such report to the state registrar in the state of
36 birth.

37 8. In a case of adoption in this state of a person not born in any state,
38 territory or possession of the United States or country not covered by interchange
39 agreements, the state registrar shall upon receipt of the certificate of decree of
40 adoption prepare a birth certificate in the name of the adopted person, as decreed
41 by the court. The state registrar shall file the certificate of the decree of
42 adoption, and such documents may be opened by the state registrar only by an
43 order of court. The birth certificate prepared under this subsection shall have the
44 same legal weight as evidence as a delayed or altered birth certificate as provided
45 in section 193.235.

46 9. The department, upon receipt of proof that a person has been adopted
47 by a Missouri resident pursuant to laws of countries other than the United
48 States, shall prepare a birth certificate in the name of the adopted person as
49 decreed by the court of such country. If such proof contains the surname of either
50 adoptive parent, the department of health and senior services shall prepare a
51 birth certificate as requested by the adoptive parents. Any subsequent change
52 of the name of the adopted person shall be made by a court of competent
53 jurisdiction. The proof of adoption required by the department shall include a
54 copy of the original birth certificate and adoption decree, an English translation
55 of such birth certificate and adoption decree, and a copy of the approval of the
56 immigration of the adopted person by the Immigration and Naturalization Service
57 of the United States government which shows the child lawfully entered the
58 United States. The authenticity of the translation of the birth certificate and
59 adoption decree required by this subsection shall be sworn to by the translator
60 in a notarized document. The state registrar shall file such documents received
61 by the department relating to such adoption and such documents may be opened
62 by the state registrar only by an order of a court. A birth certificate pursuant to
63 this subsection shall be issued upon request of one of the adoptive parents of such
64 adopted person or upon request of the adopted person if of legal age. The birth
65 certificate prepared pursuant to the provisions of this subsection shall have the
66 same legal weight as evidence as a delayed or altered birth certificate as provided
67 in sections 193.005 to 193.325.

68 10. If no certificate of birth is on file for the person under twelve years of
69 age who has been adopted, a belated certificate of birth shall be filed with the
70 state registrar as provided in sections 193.005 to 193.325 before a new birth
71 record is to be established as result of adoption. A new certificate is to be
72 established on the basis of the adoption under this section and shall be prepared

73 on a certificate of live birth form.

74 11. If no certificate of birth has been filed for a person twelve years of age
75 or older who has been adopted, a new birth certificate is to be established under
76 this section upon receipt of proof of adoption as required by the department. A
77 new certificate shall be prepared in the name of the adopted person as decreed
78 by the court, registering adopted parents' names. The new certificate shall be
79 prepared on a delayed birth certificate form. The adoption decree is placed in a
80 sealed file and shall not be subject to inspection except upon an order of the
81 court.

193.128. 1. **Notwithstanding any other provision of law, an
2 adopted person, the adopted person's attorney, or the adopted person's
3 descendants, if the adopted person is deceased, may obtain a copy of
4 such adopted person's original certificate of birth from the state
5 registrar in accordance with this section.**

6 2. **In order for an adopted person to receive a copy of his or her
7 original certificate of birth, the adopted person shall:**

8 (1) **Be at least eighteen years of age;**

9 (2) **Have been born in this state;**

10 (3) **File a written application with and provide appropriate proof
11 of identification to the state registrar; and**

12 (4) **If included with the copy of the original birth certificate,
13 agree in writing to abide by the birth parent's preference stated in the
14 contact preference form attached to the adopted person's original birth
15 certificate in accordance with section 193.132.**

16 3. **The state registrar may require a waiting period and impose
17 a fee for issuance of the uncertified copy under subsection 4 of this
18 section. The fees and waiting period imposed under this subsection
19 shall be identical to the fees and waiting period generally imposed on
20 persons seeking their own birth certificates.**

21 4. **Upon receipt of a written application and proof of
22 identification under subsection 2 of this section and fulfillment of the
23 requirements of subsection 3 of this section, the state registrar shall
24 issue an uncertified copy of the unaltered original birth certificate to
25 the applicant. The copy of the birth certificate shall have the following
26 statement printed on it: "for informational purposes only - not to be
27 used for establishing identity". If a contact preference and medical**

28 history form has been completed and submitted to the state registrar
29 under section 193.132, the state registrar shall also provide such
30 information.

31 5. The provisions of subsections 1 to 4 of this section shall not
32 apply to adoptions instituted or completed prior to August 28, 2010,
33 except that a copy of a medical history form, which has had all
34 identifying information redacted, shall be issued to such adopted
35 person. For adoptions instituted or completed prior to August 28, 2010,
36 the state registrar shall follow the provisions of this subsection and
37 shall release the original certificate of birth only if the birth mother is
38 deceased. If the birth mother is not deceased, the state registrar shall,
39 within three months of application by the adopted person, make
40 reasonable efforts to contact the birth mother via telephone or United
41 States mail, personally and confidentially, to obtain the birth mother's
42 consent or denial to release the original certificate of birth. If the state
43 registrar does not have sufficient information or resources to locate
44 and make contact with the birth mother, the state registrar may refer
45 the adopted person to, or work in conjunction with, the child placing
46 agency or the juvenile court to make the contact and conduct the
47 search as provided in section 453.121. The state registrar, the child
48 placing agency, or the juvenile court personnel may charge actual costs
49 to the adopted person for the cost of making such search of the birth
50 mother. If the state registrar has been unable to contact the birth
51 mother within three months, the state registrar shall not release the
52 certificate of birth. The adopted person may reapply for a copy of his
53 or her original certificate of birth within one year from the end of the
54 three-month period during which the attempted contact with the birth
55 mother was previously made. The state registrar shall not release the
56 certificate of birth until the birth mother submits a subsequent written
57 consent for release. If the birth mother gives her consent, the state
58 registrar, the child placing agency, or the juvenile court shall also
59 release to the adopted person the identifying information obtained as
60 a result of the search.

61 6. The state registrar shall develop by rule the application form
62 required by this section and may adopt other rules for the
63 administration of this section. Any rule or portion of a rule, as that

64 term is defined in section 536.010, that is created under the authority
65 delegated in this section shall become effective only if it complies with
66 and is subject to all of the provisions of chapter 536, and, if applicable,
67 section 536.028. This section and chapter 536, are nonseverable and if
68 any of the powers vested with the general assembly pursuant to chapter
69 536, to review, to delay the effective date, or to disapprove and annul
70 a rule are subsequently held unconstitutional, then the grant of
71 rulemaking authority and any rule proposed or adopted after August
72 28, 2010, shall be invalid and void.

73 7. Nothing in this section shall be construed as violating the
74 provisions of section 453.121.

193.132. 1. As used in this section, the following terms mean:

- 2 (1) "Adoptee", the person who is the subject of a birth certificate;
3 (2) "Birth parent", the person who is the biological parent of an
4 adoptee and who is named as the parent on the original birth
5 certificate of the adoptee;
6 (3) "Contact preference form", the form developed by the state
7 registrar under subsection 4 of this section;
8 (4) "Medical history form", the form developed by the state
9 registrar under subsection 3 of this section. At a minimum, such form
10 shall include medical history information regarding:
11 (a) Congenital or genetic history;
12 (b) Psychosocial history;
13 (c) Chronic diseases;
14 (d) Infectious diseases;
15 (e) Allergies;
16 (f) Pregnancy and birth history; and
17 (g) Deaths of birth family members that may affect the medical
18 history.

19 2. Notwithstanding any other provision of law, the state registrar
20 shall develop and, upon request, provide each birth parent with a
21 contact preference form and a medical history form as described in this
22 section.

23 3. A birth parent may use a medical history form to describe his
24 or her medical history. A birth parent shall fill out a medical history
25 form if such birth parent also fills out a contact preference form.

26 **4. The birth parent may state a preference regarding contact by**
27 **an adoptee on a contact preference form. The form shall contain the**
28 **following statements from which the birth parent may choose only one:**

29 **(1) "I would like to be contacted. I have completed this contact**
30 **preference form and a medical history form and am filing both forms**
31 **with the State Registrar.";**

32 **(2) "I would prefer to be contacted only through an intermediary.**
33 **I have completed this contact preference form and a medical history**
34 **form and am filing both with the State Registrar."; or**

35 **(3) "Do not contact me. I may change this preference by filling**
36 **out another contact preference form. I have completed this contact**
37 **preference form and a medical history form and am filing both with the**
38 **State Registrar."**

39 **5. Upon receipt of a completed contact preference form and a**
40 **medical history form, the state registrar shall attach the completed**
41 **forms to the original birth certificate of the adoptee. A completed**
42 **contact preference form and medical history form shall have the same**
43 **level of confidentiality as the original birth certificate.**

44 **6. The state registrar shall develop by rule the forms required by**
45 **this section and may adopt other rules for the administration of this**
46 **section. Any rule or portion of a rule, as that term is defined in section**
47 **536.010, that is created under the authority delegated in this section**
48 **shall become effective only if it complies with and is subject to all of**
49 **the provisions of chapter 536, and, if applicable, section 536.028. This**
50 **section and chapter 536, are nonseverable and if any of the powers**
51 **vested with the general assembly pursuant to chapter 536, to review, to**
52 **delay the effective date, or to disapprove and annul a rule are**
53 **subsequently held unconstitutional, then the grant of rulemaking**
54 **authority and any rule proposed or adopted after August 28, 2010, shall**
55 **be invalid and void.**

56 **7. Nothing in this section shall be construed as violating the**
57 **provisions of section 453.121.**

193.255. 1. The state registrar and other custodians of vital records
2 authorized by the state registrar to issue certified copies of vital records upon
3 receipt of application shall issue a certified copy of any vital record in his or her
4 custody or a part thereof to any applicant having a direct and tangible interest

5 in the vital record. Each copy issued shall show the date of registration, and
6 copies issued from records marked "Delayed" or "Amended" shall be similarly
7 marked and show the effective date. The documentary evidence used to establish
8 a delayed certificate shall be shown on all copies issued. All forms and
9 procedures used in the issuance of certified copies of vital records in the state
10 shall be provided or approved by the state registrar. **In accordance with**
11 **sections 193.128 and 193.132, the state registrar and other custodians**
12 **of vital records authorized by the state registrar to issue copies of vital**
13 **records shall issue an uncertified copy of an original birth certificate,**
14 **contact preference form, and medical history form to an adopted**
15 **person. The state registrar may impose a minimal fee to the adopted**
16 **person for the costs of providing copies of the contact preference form**
17 **and medical history form.**

18 2. A certified copy of a vital record or any part thereof, issued in
19 accordance with subsection 1 of this section, shall be considered for all purposes
20 the same as the original and shall be prima facie evidence of the facts stated
21 therein, provided that the evidentiary value of a certificate or record filed more
22 than one year after the event, or a record which has been amended, shall be
23 determined by the judicial or administrative body or official before whom the
24 certificate is offered as evidence.

25 3. The federal agency responsible for national vital statistics may be
26 furnished such copies or data from the system of vital statistics as it may require
27 for national statistics, provided such federal agency share in the cost of collecting,
28 processing, and transmitting such data, and provided further that such data shall
29 not be used for other than statistical purposes by the federal agency unless so
30 authorized by the state registrar.

31 4. Federal, state, local and other public or private agencies may, upon
32 request, be furnished copies or data of any other vital statistics not obtainable
33 under subsection 1 of this section for statistical or administrative purposes upon
34 such terms or conditions as may be prescribed by regulation, provided that such
35 copies or data shall not be used for purposes other than those for which they were
36 requested unless so authorized by the state registrar.

37 5. The state registrar may, by agreement, transmit copies of records and
38 other reports required by sections 193.005 to 193.325 to offices of vital statistics
39 outside this state when such records or other reports relate to residents of those
40 jurisdictions or persons born in those jurisdictions. This agreement shall require

41 that the copies be used for statistical and administrative purposes only, and the
42 agreement shall further provide for the retention and disposition of such
43 copies. Copies received by the department from offices of vital statistics in other
44 states shall be handled in the same manner as prescribed in this section.

45 6. No person shall prepare or issue any certificate which purports to be
46 an original, certified copy, or copy of a vital record except as authorized herein
47 or by regulations adopted hereunder.

48 7. Upon application from either parent, or if both parents are deceased,
49 the sibling of the stillborn child, pursuant to subsection 7 of section 193.165, the
50 state registrar or other custodians of vital records shall issue to such applicant
51 a certificate of birth resulting in stillbirth. The certificate shall be based upon
52 the information available from the spontaneous fetal death report filed pursuant
53 to section 193.165. Any certificate of birth resulting in stillbirth issued shall
54 conspicuously include, in no smaller than twelve-point type, the statement "This
55 is not proof of a live birth.". No certificate of birth resulting in stillbirth shall be
56 issued to any person other than a parent, or if both parents are deceased, the
57 sibling of the stillborn child who files an application pursuant to section
58 193.165. The state registrar or other custodians of vital records are authorized
59 to charge a minimal fee to such applicant to cover the actual costs of providing
60 the certificate pursuant to this section.

61 8. Any parent, or if both parents are deceased, any sibling of the stillborn
62 child may file an application for a certificate of birth resulting in stillbirth for a
63 birth that resulted in stillbirth prior to August 28, 2004.

210.145. 1. The division shall develop protocols which give priority to:

2 (1) Ensuring the well-being and safety of the child in instances where
3 child abuse or neglect has been alleged;

4 (2) Promoting the preservation and reunification of children and families
5 consistent with state and federal law;

6 (3) Providing due process for those accused of child abuse or neglect; and

7 (4) Maintaining an information system operating at all times, capable of
8 receiving and maintaining reports. This information system shall have the ability
9 to receive reports over a single, statewide toll-free number. Such information
10 system shall maintain the results of all investigations, family assessments and
11 services, and other relevant information.

12 2. The division shall utilize structured decision-making protocols for
13 classification purposes of all child abuse and neglect reports. The protocols

14 developed by the division shall give priority to ensuring the well-being and safety
15 of the child. All child abuse and neglect reports shall be initiated within
16 twenty-four hours and shall be classified based upon the reported risk and injury
17 to the child. The division shall promulgate rules regarding the structured
18 decision-making protocols to be utilized for all child abuse and neglect reports.

19 3. Upon receipt of a report, the division shall determine if the report
20 merits investigation, including reports which if true would constitute a suspected
21 violation of any of the following: section 565.020, 565.021, 565.023, 565.024, or
22 565.050, RSMo, if the victim is a child less than eighteen years of age, section
23 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age,
24 or other crimes under chapter 566, RSMo, if the victim is a child less than
25 eighteen years of age and the perpetrator is twenty-one years of age or older,
26 section 567.050, RSMo, if the victim is a child less than eighteen years of age,
27 section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo,
28 section 573.025, 573.035, 573.037, or 573.040, RSMo, or an attempt to commit any
29 such crimes. The division shall immediately communicate all reports that merit
30 investigation to its appropriate local office and any relevant information as may
31 be contained in the information system. The local division staff shall determine,
32 through the use of protocols developed by the division, whether an investigation
33 or the family assessment and services approach should be used to respond to the
34 allegation. The protocols developed by the division shall give priority to ensuring
35 the well-being and safety of the child.

36 4. The local office shall contact the appropriate law enforcement agency
37 immediately upon receipt of a report which division personnel determine merits
38 an investigation and provide such agency with a detailed description of the report
39 received. In such cases the local division office shall request the assistance of the
40 local law enforcement agency in all aspects of the investigation of the
41 complaint. The appropriate law enforcement agency shall either assist the
42 division in the investigation or provide the division, within twenty-four hours, an
43 explanation in writing detailing the reasons why it is unable to assist.

44 5. The local office of the division shall cause an investigation or family
45 assessment and services approach to be initiated in accordance with the protocols
46 established in subsection 2 of this section, except in cases where the sole basis for
47 the report is educational neglect. If the report indicates that educational neglect
48 is the only complaint and there is no suspicion of other neglect or abuse, the
49 investigation shall be initiated within seventy-two hours of receipt of the report.

50 If the report indicates the child is in danger of serious physical harm or threat
51 to life, an investigation shall include direct observation of the subject child within
52 twenty-four hours of the receipt of the report. Local law enforcement shall take
53 all necessary steps to facilitate such direct observation. If the parents of the
54 child are not the alleged abusers, a parent of the child must be notified prior to
55 the child being interviewed by the division. If the abuse is alleged to have
56 occurred in a school or child-care facility the division shall not meet with the
57 child in any school building or child-care facility building where abuse of such
58 child is alleged to have occurred. When the child is reported absent from the
59 residence, the location and the well-being of the child shall be verified. For
60 purposes of this subsection, child-care facility shall have the same meaning as
61 such term is defined in section 210.201.

62 6. The director of the division shall name at least one chief investigator
63 for each local division office, who shall direct the division response on any case
64 involving a second or subsequent incident regarding the same subject child or
65 perpetrator. The duties of a chief investigator shall include verification of direct
66 observation of the subject child by the division and shall ensure information
67 regarding the status of an investigation is provided to the public school district
68 liaison. The public school district liaison shall develop protocol in conjunction
69 with the chief investigator to ensure information regarding an investigation is
70 shared with appropriate school personnel. The superintendent of each school
71 district shall designate a specific person or persons to act as the public school
72 district liaison. Should the subject child attend a nonpublic school the chief
73 investigator shall notify the school principal of the investigation. Upon
74 notification of an investigation, all information received by the public school
75 district liaison or the school shall be subject to the provisions of the federal
76 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g,
77 and federal rule 34 C.F.R., Part 99.

78 7. The investigation shall include but not be limited to the nature, extent,
79 and cause of the abuse or neglect; the identity and age of the person responsible
80 for the abuse or neglect; the names and conditions of other children in the home,
81 if any; the home environment and the relationship of the subject child to the
82 parents or other persons responsible for the child's care; any indication of
83 incidents of physical violence against any other household or family member; and
84 other pertinent data.

85 8. When a report has been made by a person required to report under

86 section 210.115, the division shall contact the person who made such report
87 within forty-eight hours of the receipt of the report in order to ensure that full
88 information has been received and to obtain any additional information or
89 medical records, or both, that may be pertinent.

90 9. Upon completion of the investigation, if the division suspects that the
91 report was made maliciously or for the purpose of harassment, the division shall
92 refer the report and any evidence of malice or harassment to the local prosecuting
93 or circuit attorney.

94 10. Multidisciplinary teams shall be used whenever conducting the
95 investigation as determined by the division in conjunction with local law
96 enforcement. Multidisciplinary teams shall be used in providing protective or
97 preventive social services, including the services of law enforcement, a liaison of
98 the local public school, the juvenile officer, the juvenile court, and other agencies,
99 both public and private.

100 11. For all family support team meetings involving an alleged victim of
101 child abuse or neglect, the parents, legal counsel for the parents, foster parents,
102 the legal guardian or custodian of the child, the guardian ad litem for the child,
103 and the volunteer advocate for the child shall be provided notice and be permitted
104 to attend all such meetings. Family members, other than alleged perpetrators,
105 or other community informal or formal service providers that provide significant
106 support to the child and other individuals may also be invited at the discretion
107 of the parents of the child. In addition, the parents, the legal counsel for the
108 parents, the legal guardian or custodian and the foster parents may request that
109 other individuals, other than alleged perpetrators, be permitted to attend such
110 team meetings. Once a person is provided notice of or attends such team
111 meetings, the division or the convenor of the meeting shall provide such persons
112 with notice of all such subsequent meetings involving the child. Families may
113 determine whether individuals invited at their discretion shall continue to be
114 invited.

115 12. If the appropriate local division personnel determine after an
116 investigation has begun that completing an investigation is not appropriate, the
117 division shall conduct a family assessment and services approach. The division
118 shall provide written notification to local law enforcement prior to terminating
119 any investigative process. The reason for the termination of the investigative
120 process shall be documented in the record of the division and the written
121 notification submitted to local law enforcement. Such notification shall not

122 preclude nor prevent any investigation by law enforcement.

123 13. If the appropriate local division personnel determines to use a family
124 assessment and services approach, the division shall:

125 (1) Assess any service needs of the family. The assessment of risk and
126 service needs shall be based on information gathered from the family and other
127 sources;

128 (2) Provide services which are voluntary and time-limited unless it is
129 determined by the division based on the assessment of risk that there will be a
130 high risk of abuse or neglect if the family refuses to accept the services. The
131 division shall identify services for families where it is determined that the child
132 is at high risk of future abuse or neglect. The division shall thoroughly document
133 in the record its attempt to provide voluntary services and the reasons these
134 services are important to reduce the risk of future abuse or neglect to the child.
135 If the family continues to refuse voluntary services or the child needs to be
136 protected, the division may commence an investigation;

137 (3) Commence an immediate investigation if at any time during the family
138 assessment and services approach the division determines that an investigation,
139 as delineated in sections 210.109 to 210.183, is required. The division staff who
140 have conducted the assessment may remain involved in the provision of services
141 to the child and family;

142 (4) Document at the time the case is closed, the outcome of the family
143 assessment and services approach, any service provided and the removal of risk
144 to the child, if it existed.

145 14. Within [thirty] **forty-five working** days of an oral report of abuse
146 or neglect, the local office shall update the information in the information
147 system. The information system shall contain, at a minimum, the determination
148 made by the division as a result of the investigation, identifying information on
149 the subjects of the report, those responsible for the care of the subject child and
150 other relevant dispositional information. The division shall complete all
151 investigations within [thirty] **forty-five working** days, unless good cause for the
152 failure to complete the investigation is documented in the information system. If
153 a child involved in a pending investigation dies, the investigation shall remain
154 open until the division's investigation surrounding the death is completed. If the
155 investigation is not completed within [thirty] **forty-five working** days, the
156 information system shall be updated at regular intervals and upon the completion
157 of the investigation. The information in the information system shall be updated

158 to reflect any subsequent findings, including any changes to the findings based
159 on an administrative or judicial hearing on the matter.

160 **15. No determination of the division shall be entered in the**
161 **central registry until:**

162 **(1) The alleged perpetrator fails to request review by the child**
163 **abuse and neglect review board or trial de novo in the circuit court**
164 **within the thirty-day period provided in subsection 3 of section 210.152;**
165 **or**

166 **(2) A determination is made by the child abuse and neglect**
167 **review board that the alleged perpetrator has committed child abuse**
168 **or neglect.**

169 **16.** A person required to report under section 210.115 to the division and
170 any person making a report of child abuse or neglect made to the division which
171 is not made anonymously shall be informed by the division of his or her right to
172 obtain information concerning the disposition of his or her report. Such person
173 shall receive, from the local office, if requested, information on the general
174 disposition of his or her report. Such person may receive, if requested, findings
175 and information concerning the case. Such release of information shall be at the
176 discretion of the director based upon a review of the reporter's ability to assist in
177 protecting the child or the potential harm to the child or other children within the
178 family. The local office shall respond to the request within forty-five days. The
179 findings shall be made available to the reporter within five days of the outcome
180 of the investigation. If the report is determined to be unsubstantiated, the
181 reporter may request that the report be referred by the division to the office of
182 child advocate for children's protection and services established in sections 37.700
183 to 37.730, RSMo. Upon request by a reporter under this subsection, the division
184 shall refer an unsubstantiated report of child abuse or neglect to the office of
185 child advocate for children's protection and services.

186 **[16.] 17.** In any judicial proceeding involving the custody of a child the
187 fact that a report may have been made pursuant to sections 210.109 to 210.183
188 shall not be admissible. However:

189 **(1)** Nothing in this subsection shall prohibit the introduction of evidence
190 from independent sources to support the allegations that may have caused a
191 report to have been made; and

192 **(2)** The court may on its own motion, or shall if requested by a party to
193 the proceeding, make an inquiry not on the record with the children's division to

194 determine if such a report has been made. If a report has been made, the court
195 may stay the custody proceeding until the children's division completes its
196 investigation.

197 [17.] 18. In any judicial proceeding involving the custody of a child where
198 the court determines that the child is in need of services pursuant to **paragraph**
199 **(d) of** subdivision [(d)] (1) of subsection 1 of section 211.031, RSMo, and has
200 taken jurisdiction, the child's parent, guardian or custodian shall not be entered
201 into the registry.

202 [18.] 19. The children's division is hereby granted the authority to
203 promulgate rules and regulations pursuant to the provisions of section 207.021,
204 RSMo, and chapter 536, RSMo, to carry out the provisions of sections 210.109 to
205 210.183.

206 [19.] 20. Any rule or portion of a rule, as that term is defined in section
207 536.010, RSMo, that is created under the authority delegated in this section shall
208 become effective only if it complies with and is subject to all of the provisions of
209 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
210 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
211 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective
212 date or to disapprove and annul a rule are subsequently held unconstitutional,
213 then the grant of rulemaking authority and any rule proposed or adopted after
214 August 28, 2000, shall be invalid and void.

210.150. 1. The children's division shall ensure the confidentiality of all
2 reports and records made pursuant to sections 210.109 to 210.183 and maintained
3 by the division, its local offices, the central registry, and other appropriate
4 persons, officials, and institutions pursuant to sections 210.109 to 210.183. To
5 protect the rights of the family and the child named in the report as a victim, the
6 children's division shall establish guidelines which will ensure that any disclosure
7 of information concerning the abuse and neglect involving that child is made only
8 to persons or agencies that have a right to such information. The division may
9 require persons to make written requests for access to records maintained by the
10 division. The division shall only release information to persons who have a right
11 to such information. The division shall notify persons receiving information
12 pursuant to subdivisions (2), (7), (8) and (9) of subsection 2 of this section of the
13 purpose for which the information is released and of the penalties for
14 unauthorized dissemination of information. Such information shall be used only
15 for the purpose for which the information is released.

16 2. Only the following persons shall have access to investigation records
17 contained in the central registry:

18 (1) Appropriate federal, state or local criminal justice agency personnel,
19 or any agent of such entity, with a need for such information under the law to
20 protect children from abuse or neglect;

21 (2) A physician or a designated agent who reasonably believes that the
22 child being examined may be abused or neglected;

23 (3) Appropriate staff of the division and of its local offices, including
24 interdisciplinary teams which are formed to assist the division in investigation,
25 evaluation and treatment of child abuse and neglect cases or a multidisciplinary
26 provider of professional treatment services for a child referred to the provider;

27 (4) Any child named in the report as a victim, or a legal representative,
28 or the parent, if not the alleged perpetrator, or guardian of such person when
29 such person is a minor, or is mentally ill or otherwise incompetent, but the names
30 of reporters shall not be furnished to persons in this category. Prior to the
31 release of any identifying information, the division shall determine if the release
32 of such identifying information may place a person's life or safety in danger. If
33 the division makes the determination that a person's life or safety may be in
34 danger, the identifying information shall not be released. The division shall
35 provide a method for confirming or certifying that a designee is acting on behalf
36 of a subject;

37 (5) Any alleged perpetrator named in the report, but the names of
38 reporters shall not be furnished to persons in this category. Prior to the release
39 of any identifying information, the division shall determine if the release of such
40 identifying information may place a person's life or safety in danger. If the
41 division makes the determination that a person's life or safety may be in danger,
42 the identifying information shall not be released. However, the investigation
43 reports [will] **shall** not be released to any alleged perpetrator with [pending]
44 **potential** criminal charges arising out of the facts and circumstances named in
45 the investigation records until an indictment is returned or an information filed
46 **or one year after the division has notified in writing the prosecuting**
47 **attorney in the jurisdiction where the acts forming the basis of the**
48 **report are alleged to have occurred, whichever occurs first. The**
49 **prosecuting attorney may petition the circuit court of such jurisdiction**
50 **to extend the one-year period for good cause shown, for such time as**
51 **the court may determine is necessary to complete the investigation and**

52 **to file any appropriate charges;**

53 (6) A grand jury, juvenile officer, prosecuting attorney, law enforcement
54 officer involved in the investigation of child abuse or neglect, juvenile court or
55 other court conducting abuse or neglect or child protective proceedings or child
56 custody proceedings, and other federal, state and local government entities, or
57 any agent of such entity, with a need for such information in order to carry out
58 its responsibilities under the law to protect children from abuse or neglect;

59 (7) Any person engaged in a bona fide research purpose, with the
60 permission of the director; provided, however, that no information identifying the
61 child named in the report as a victim or the reporters shall be made available to
62 the researcher, unless the identifying information is essential to the research or
63 evaluation and the child named in the report as a victim or, if the child is less
64 than eighteen years of age, through the child's parent, or guardian provides
65 written permission;

66 (8) Any child-care facility; child-placing agency; residential-care facility,
67 including group homes; juvenile courts; public or private elementary schools;
68 public or private secondary schools; or any other public or private agency
69 exercising temporary supervision over a child or providing or having care or
70 custody of a child who may request an examination of the central registry from
71 the division for all employees and volunteers or prospective employees and
72 volunteers, who do or will provide services or care to children. Any agency or
73 business recognized by the division or business which provides training and
74 places or recommends people for employment or for volunteers in positions where
75 they will provide services or care to children may request the division to provide
76 an examination of the central registry. Such agency or business shall provide
77 verification of its status as a recognized agency. Requests for examinations shall
78 be made to the division director or the director's designee in writing by the chief
79 administrative officer of the above homes, centers, public and private elementary
80 schools, public and private secondary schools, agencies, or courts. The division
81 shall respond in writing to that officer. The response shall include information
82 pertaining to the nature and disposition of any report or reports of abuse or
83 neglect revealed by the examination of the central registry. This response shall
84 not include any identifying information regarding any person other than the
85 alleged perpetrator of the abuse or neglect;

86 (9) Any parent or legal guardian who inquires about a child abuse or
87 neglect report involving a specific person or child-care facility who does or may

88 provide services or care to a child of the person requesting the
89 information. Request for examinations shall be made to the division director or
90 the director's designee, in writing, by the parent or legal guardian of the child
91 and shall be accompanied with a signed and notarized release form from the
92 person who does or may provide care or services to the child. The notarized
93 release form shall include the full name, date of birth and Social Security number
94 of the person who does or may provide care or services to a child. The response
95 shall include information pertaining to the nature and disposition of any report
96 or reports of abuse or neglect revealed by the examination of the central
97 registry. This response shall not include any identifying information regarding
98 any person other than the alleged perpetrator of the abuse or neglect. The
99 response shall be given within ten working days of the time it was received by the
100 division;

101 (10) Any person who inquires about a child abuse or neglect report
102 involving a specific child-care facility, child-placing agency, residential-care
103 facility, public and private elementary schools, public and private secondary
104 schools, juvenile court or other state agency. The information available to these
105 persons is limited to the nature and disposition of any report contained in the
106 central registry and shall not include any identifying information pertaining to
107 any person mentioned in the report;

108 (11) Any state agency acting pursuant to statutes regarding a license of
109 any person, institution, or agency which provides care for or services to children;

110 (12) Any child fatality review panel established pursuant to section
111 210.192 or any state child fatality review panel established pursuant to section
112 210.195;

113 (13) Any person who is a tenure-track or full-time research faculty
114 member at an accredited institution of higher education engaged in scholarly
115 research, with the permission of the director. Prior to the release of any
116 identifying information, the director shall require the researcher to present a plan
117 for maintaining the confidentiality of the identifying information. The researcher
118 shall be prohibited from releasing the identifying information of individual cases.

119 3. Only the following persons shall have access to records maintained by
120 the division pursuant to section 210.152 for which the division has received a
121 report of child abuse and neglect and which the division has determined that
122 there is insufficient evidence or in which the division proceeded with the family
123 assessment and services approach:

- 124 (1) Appropriate staff of the division;
- 125 (2) Any child named in the report as a victim, or a legal representative,
126 or the parent or guardian of such person when such person is a minor, or is
127 mentally ill or otherwise incompetent. The names or other identifying
128 information of reporters shall not be furnished to persons in this category. Prior
129 to the release of any identifying information, the division shall determine if the
130 release of such identifying information may place a person's life or safety in
131 danger. If the division makes the determination that a person's life or safety may
132 be in danger, the identifying information shall not be released. The division shall
133 provide for a method for confirming or certifying that a designee is acting on
134 behalf of a subject;
- 135 (3) Any alleged perpetrator named in the report, but the names of
136 reporters shall not be furnished to persons in this category. Prior to the release
137 of any identifying information, the division shall determine if the release of such
138 identifying information may place a person's life or safety in danger. If the
139 division makes the determination that a person's life or safety may be in danger,
140 the identifying information shall not be released. However, the investigation
141 reports [will] **shall** not be released to any alleged perpetrator with [pending]
142 **potential** criminal charges arising out of the facts and circumstances named in
143 the investigation records until an indictment is returned or an information filed
144 **or one year after the division has notified in writing the prosecuting**
145 **attorney in the jurisdiction where the acts forming the basis of the**
146 **report are alleged to have occurred, whichever occurs first. The**
147 **prosecuting attorney may petition the circuit court of such jurisdiction**
148 **to extend the one-year period for good cause shown, for such time as**
149 **the court may determine is necessary to complete the investigation and**
150 **to file any appropriate charges;**
- 151 (4) Any child fatality review panel established pursuant to section 210.192
152 or any state child fatality review panel established pursuant to section 210.195;
- 153 (5) Appropriate criminal justice agency personnel or juvenile officer;
- 154 (6) Multidisciplinary agency or individual including a physician or
155 physician's designee who is providing services to the child or family, with the
156 consent of the parent or guardian of the child or legal representative of the child;
- 157 (7) Any person engaged in bona fide research purpose, with the
158 permission of the director; provided, however, that no information identifying the
159 subjects of the reports or the reporters shall be made available to the researcher,

160 unless the identifying information is essential to the research or evaluation and
161 the subject, or if a child, through the child's parent or guardian, provides written
162 permission.

163 4. Any person who knowingly violates the provisions of this section, or
164 who permits or encourages the unauthorized dissemination of information
165 contained in the information system or the central registry and in reports and
166 records made pursuant to sections 210.109 to 210.183, shall be guilty of a class
167 A misdemeanor.

168 5. Nothing in this section shall preclude the release of findings or
169 information about cases which resulted in a child fatality or near fatality. Such
170 release is at the sole discretion of the director of the department of social services,
171 based upon a review of the potential harm to other children within the immediate
172 family.

210.152. 1. All identifying information, including telephone reports
2 reported pursuant to section 210.145, relating to reports of abuse or neglect
3 received by the division shall be retained by the division and removed from the
4 records of the division as follows:

5 (1) For investigation reports contained in the central registry, identifying
6 information shall be retained by the division;

7 (2) (a) For investigation reports initiated against a person required to
8 report pursuant to section 210.115, where insufficient evidence of abuse or neglect
9 is found by the division and where the division determines the allegation of abuse
10 or neglect was made maliciously, for purposes of harassment or in retaliation for
11 the filing of a report by a person required to report, identifying information shall
12 be expunged by the division within forty-five days from the conclusion of the
13 investigation;

14 (b) For investigation reports, where insufficient evidence of abuse or
15 neglect is found by the division and where the division determines the allegation
16 of abuse or neglect was made maliciously, for purposes of harassment or in
17 retaliation for the filing of a report, identifying information shall be expunged by
18 the division within forty-five days from the conclusion of the investigation;

19 (c) For investigation reports initiated by a person required to report under
20 section 210.115, where insufficient evidence of abuse or neglect is found by the
21 division, identifying information shall be retained for five years from the
22 conclusion of the investigation. For all other investigation reports where
23 insufficient evidence of abuse or neglect is found by the division, identifying

24 information shall be retained for two years from the conclusion of the
25 investigation.

26 Such reports shall include any exculpatory evidence known by the division,
27 including exculpatory evidence obtained after the closing of the case. At the end
28 of such time period, the identifying information shall be removed from the records
29 of the division and destroyed;

30 (3) For reports where the division uses the family assessment and services
31 approach, identifying information shall be retained by the division;

32 (4) For reports in which the division is unable to locate the child alleged
33 to have been abused or neglected, identifying information shall be retained for ten
34 years from the date of the report and then shall be removed from the records of
35 the division.

36 2. Within ninety days after receipt of a report of abuse or neglect that is
37 investigated, the alleged perpetrator named in the report and the parents of the
38 child named in the report, if the alleged perpetrator is not a parent, shall be
39 notified in writing of any determination made by the division based on the
40 investigation. The notice shall advise either:

41 (1) That the division has determined by a probable cause finding prior to
42 August 28, 2004, or by a preponderance of the evidence after August 28, 2004,
43 that abuse or neglect exists and that the division shall retain all identifying
44 information regarding the abuse or neglect; that such information shall remain
45 confidential and will not be released except to law enforcement agencies,
46 prosecuting or circuit attorneys, or as provided in section 210.150; that the
47 alleged perpetrator has [sixty] **thirty** days from the date of receipt of the notice
48 to seek reversal of the division's determination through a review by the child
49 abuse and neglect review board as provided in subsection 3 of this section; or

50 (2) That the division has not made a probable cause finding or determined
51 by a preponderance of the evidence that abuse or neglect exists.

52 3. Any person named in an investigation as a perpetrator who is
53 aggrieved by a determination of abuse or neglect by the division as provided in
54 this section may seek an administrative review by the child abuse and neglect
55 review board pursuant to the provisions of section 210.153. Such request for
56 review shall be made within [sixty] **thirty** days of notification of the division's
57 decision under this section. In those cases where criminal charges arising out of
58 facts of the investigation are pending, the request for review shall be made within
59 [sixty]

60 **thirty** days from [the court's final disposition or dismissal of the charges] **when**
61 **an indictment is returned, an information filed, dismissal of the**
62 **charges or after the division's release of its investigative report to the**
63 **alleged perpetrator under section 210.150.**

64 4. In any such action for administrative review, the child abuse and
65 neglect review board shall sustain the division's determination if such
66 determination was supported by evidence of probable cause prior to August 28,
67 2004, or is supported by a preponderance of the evidence after August 28, 2004,
68 and is not against the weight of such evidence. The child abuse and neglect
69 review board hearing shall be closed to all persons except the parties, their
70 attorneys and those persons providing testimony on behalf of the parties.

71 5. If the alleged perpetrator is aggrieved by the decision of the child abuse
72 and neglect review board, the alleged perpetrator may seek de novo judicial
73 review in the circuit court in the county in which the alleged perpetrator resides
74 and in circuits with split venue, in the venue in which the alleged perpetrator
75 resides, or in Cole County. If the alleged perpetrator is not a resident of the
76 state, proper venue shall be in Cole County. The case may be assigned to the
77 family court division where such a division has been established. The request for
78 a judicial review shall be made within [sixty] **thirty** days of notification of the
79 decision of the child abuse and neglect review board decision. In reviewing such
80 decisions, the circuit court shall provide the alleged perpetrator the opportunity
81 to appear and present testimony. The alleged perpetrator may subpoena any
82 witnesses except the alleged victim or the reporter. However, the circuit court
83 shall have the discretion to allow the parties to submit the case upon a stipulated
84 record.

85 6. In any such action for administrative review, the child abuse and
86 neglect review board shall notify the child or the parent, guardian or legal
87 representative of the child that a review has been requested.

211.031. 1. Except as otherwise provided in this chapter, the juvenile
2 court or the family court in circuits that have a family court as provided in
3 sections 487.010 to 487.190, RSMo, shall have exclusive original jurisdiction in
4 proceedings:

5 (1) Involving any child or person seventeen years of age who may be a
6 resident of or found within the county and who is alleged to be in need of care
7 and treatment because:

8 (a) The parents, or other persons legally responsible for the care and

9 support of the child or person seventeen years of age, neglect or refuse to provide
10 proper support, education which is required by law, medical, surgical or other
11 care necessary for his or her well-being; except that reliance by a parent,
12 guardian or custodian upon remedial treatment other than medical or surgical
13 treatment for a child or person seventeen years of age shall not be construed as
14 neglect when the treatment is recognized or permitted pursuant to the laws of
15 this state;

16 (b) The child or person seventeen years of age is otherwise without proper
17 care, custody or support; or

18 (c) The child or person seventeen years of age was living in a room,
19 building or other structure at the time such dwelling was found by a court of
20 competent jurisdiction to be a public nuisance pursuant to section 195.130, RSMo;

21 (d) The child or person seventeen years of age is a child in need of mental
22 health services and the parent, guardian or custodian is unable to afford or access
23 appropriate mental health treatment or care for the child;

24 (2) Involving any child who may be a resident of or found within the
25 county and who is alleged to be in need of care and treatment because:

26 (a) The child while subject to compulsory school attendance is repeatedly
27 and without justification absent from school; or

28 (b) The child disobeys the reasonable and lawful directions of his or her
29 parents or other custodian and is beyond their control; or

30 (c) The child is habitually absent from his or her home without sufficient
31 cause, permission, or justification; or

32 (d) The behavior or associations of the child are otherwise injurious to his
33 or her welfare or to the welfare of others; or

34 (e) The child is charged with an offense not classified as criminal, or with
35 an offense applicable only to children; except that, the juvenile court shall not
36 have jurisdiction over any child fifteen and one-half years of age who is alleged
37 to have violated a state or municipal traffic ordinance or regulation, the violation
38 of which does not constitute a felony, or any child who is alleged to have violated
39 a state or municipal ordinance or regulation prohibiting possession or use of any
40 tobacco product;

41 (3) Involving any child who is alleged to have violated a state law or
42 municipal ordinance, or any person who is alleged to have violated a state law or
43 municipal ordinance prior to attaining the age of seventeen years, in which cases
44 jurisdiction may be taken by the court of the circuit in which the child or person

45 resides or may be found or in which the violation is alleged to have occurred;
46 except that, the juvenile court shall not have jurisdiction over any child fifteen
47 [and one-half] years of age who is alleged to have violated a state or municipal
48 traffic ordinance or regulation, the violation of which does not constitute a felony,
49 and except that the juvenile court shall have concurrent jurisdiction with the
50 municipal court over any child who is alleged to have violated a municipal curfew
51 ordinance, and except that the juvenile court shall have concurrent jurisdiction
52 with the circuit court on any child who is alleged to have violated a state or
53 municipal ordinance or regulation prohibiting possession or use of any tobacco
54 product;

55 (4) For the adoption of a person;

56 (5) For the commitment of a child or person seventeen years of age to the
57 guardianship of the department of social services as provided by law.

58 2. Transfer of a matter, proceeding, jurisdiction or supervision for a child
59 or person seventeen years of age who resides in a county of this state shall be
60 made as follows:

61 (1) Prior to the filing of a petition and upon request of any party or at the
62 discretion of the juvenile officer, the matter in the interest of a child or person
63 seventeen years of age may be transferred by the juvenile officer, with the prior
64 consent of the juvenile officer of the receiving court, to the county of the child's
65 residence or the residence of the person seventeen years of age for future action;

66 (2) Upon the motion of any party or on its own motion prior to final
67 disposition on the pending matter, the court in which a proceeding is commenced
68 may transfer the proceeding of a child or person seventeen years of age to the
69 court located in the county of the child's residence or the residence of the person
70 seventeen years of age, or the county in which the offense pursuant to subdivision
71 (3) of subsection 1 of this section is alleged to have occurred for further action;

72 (3) Upon motion of any party or on its own motion, the court in which
73 jurisdiction has been taken pursuant to subsection 1 of this section may at any
74 time thereafter transfer jurisdiction of a child or person seventeen years of age
75 to the court located in the county of the child's residence or the residence of the
76 person seventeen years of age for further action with the prior consent of the
77 receiving court;

78 (4) Upon motion of any party or upon its own motion at any time following
79 a judgment of disposition or treatment pursuant to section 211.181, the court
80 having jurisdiction of the cause may place the child or person seventeen years of

81 age under the supervision of another juvenile court within or without the state
82 pursuant to section 210.570, RSMo, with the consent of the receiving court;

83 (5) Upon motion of any child or person seventeen years of age or his or
84 her parent, the court having jurisdiction shall grant one change of judge pursuant
85 to Missouri Supreme Court Rules;

86 (6) Upon the transfer of any matter, proceeding, jurisdiction or
87 supervision of a child or person seventeen years of age, certified copies of all legal
88 and social documents and records pertaining to the case on file with the clerk of
89 the transferring juvenile court shall accompany the transfer.

90 3. In any proceeding involving any child or person seventeen years of age
91 taken into custody in a county other than the county of the child's residence or
92 the residence of a person seventeen years of age, the juvenile court of the county
93 of the child's residence or the residence of a person seventeen years of age shall
94 be notified of such taking into custody within seventy-two hours.

95 4. When an investigation by a juvenile officer pursuant to this section
96 reveals that the only basis for action involves an alleged violation of section
97 167.031, RSMo, involving a child who alleges to be home schooled, the juvenile
98 officer shall contact a parent or parents of such child to verify that the child is
99 being home schooled and not in violation of section 167.031, RSMo, before making
100 a report of such a violation. Any report of a violation of section 167.031, RSMo,
101 made by a juvenile officer regarding a child who is being home schooled shall be
102 made to the prosecuting attorney of the county where the child legally resides.

339.010. 1. A "real estate broker" is any person, partnership, **limited**
2 **partnership, limited liability company**, association, **professional**
3 **corporation**, or corporation, foreign or domestic who, for another, and for a
4 compensation or valuable consideration, does, or attempts to do, any or all of the
5 following:

6 (1) Sells, exchanges, purchases, rents, or leases real estate;

7 (2) Offers to sell, exchange, purchase, rent or lease real estate;

8 (3) Negotiates or offers or agrees to negotiate the sale, exchange,
9 purchase, rental or leasing of real estate;

10 (4) Lists or offers or agrees to list real estate for sale, lease, rental or
11 exchange;

12 (5) Buys, sells, offers to buy or sell or otherwise deals in options on real
13 estate or improvements thereon;

14 (6) Advertises or holds himself or herself out as a licensed real estate

15 broker while engaged in the business of buying, selling, exchanging, renting, or
16 leasing real estate;

17 (7) Assists or directs in the procuring of prospects, calculated to result in
18 the sale, exchange, leasing or rental of real estate;

19 (8) Assists or directs in the negotiation of any transaction calculated or
20 intended to result in the sale, exchange, leasing or rental of real estate;

21 (9) Engages in the business of charging to an unlicensed person an
22 advance fee in connection with any contract whereby the real estate broker
23 undertakes to promote the sale of that person's real estate through its listing in
24 a publication issued for such purpose intended to be circulated to the general
25 public;

26 (10) Performs any of the foregoing acts on behalf of the owner of real
27 estate, or interest therein, or improvements affixed thereon, for compensation.

28 2. A "real estate salesperson" is any person, **partnership, limited**
29 **partnership, limited liability company, association, professional**
30 **corporation, or corporation, domestic or foreign** who for a compensation
31 or valuable consideration becomes associated, either as an independent contractor
32 or employee, either directly or indirectly, with a real estate broker to do any of
33 the things above mentioned. The provisions of sections 339.010 to 339.180 and
34 sections 339.710 to 339.860 shall not be construed to deny a real estate
35 salesperson who is compensated solely by commission the right to be associated
36 with a broker as an independent contractor.

37 3. A "real estate broker-salesperson" is any person, **partnership,**
38 **limited partnership, limited liability company, association, professional**
39 **corporation, or corporation, domestic or foreign, who has a real estate**
40 **broker license in good standing, who for a compensation or valuable**
41 **consideration becomes associated, either as an independent contractor**
42 **or employee, either directly or indirectly, with a real estate broker to**
43 **do any of the things above mentioned. A real estate broker-salesperson**
44 **shall not also operate as a real estate broker. The provisions of**
45 **sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not be**
46 **construed to deny a real estate salesperson who is compensated solely**
47 **by commission the right to be associated with a broker as an**
48 **independent contractor.**

49 [3.] 4. The term "commission" as used in sections 339.010 to 339.180 and
50 sections 339.710 to 339.860 means the Missouri real estate commission.

51 [4.] 5. "Real estate" for the purposes of sections 339.010 to 339.180 and
52 sections 339.710 to 339.860 shall mean, and include, leaseholds, as well as any
53 other interest or estate in land, whether corporeal, incorporeal, freehold or
54 nonfreehold, and the real estate is situated in this state.

55 [5.] 6. "Advertising" shall mean any communication, whether oral or
56 written, between a licensee or other entity acting on behalf of one or more
57 licensees and the public, and shall include, but not be limited to, business cards,
58 signs, insignias, letterheads, radio, television, newspaper and magazine ads,
59 Internet advertising, websites, display or group ads in telephone directories, and
60 billboards.

61 [6.] 7. The provisions of sections 339.010 to 339.180 and sections 339.710
62 to 339.860 shall not apply to:

63 (1) Any person, partnership, **limited partnership, limited liability**
64 **company**, association, **professional corporation**, or corporation who as owner,
65 lessor, or lessee shall perform any of the acts described in subsection 1 of this
66 section with reference to property owned or leased by them, or to the regular
67 employees thereof;

68 (2) Any licensed attorney-at-law;

69 (3) An auctioneer employed by the owner of the property;

70 (4) Any person acting as receiver, trustee in bankruptcy, administrator,
71 executor, or guardian or while acting under a court order or under the authority
72 of a will, trust instrument or deed of trust or as a witness in any judicial
73 proceeding or other proceeding conducted by the state or any governmental
74 subdivision or agency;

75 (5) Any person employed or retained to manage real property by, for, or
76 on behalf of the agent or the owner of any real estate shall be exempt from
77 holding a license, if the person is limited to one or more of the following activities:

78 (a) Delivery of a lease application, a lease, or any amendment thereof, to
79 any person;

80 (b) Receiving a lease application, lease, or amendment thereof, a security
81 deposit, rental payment, or any related payment, for delivery to, and made
82 payable to, a broker or owner;

83 (c) Showing a rental unit to any person, as long as the employee is acting
84 under the direct instructions of the broker or owner, including the execution of
85 leases or rental agreements;

86 (d) Conveying information prepared by a broker or owner about a rental

87 unit, a lease, an application for lease, or the status of a security deposit, or the
88 payment of rent, by any person;

89 (e) Assisting in the performance of brokers' or owners' functions,
90 administrative, clerical or maintenance tasks;

91 (f) If the person described in this section is employed or retained by, for,
92 or on behalf of a real estate broker, the real estate broker shall be subject to
93 discipline under this chapter for any conduct of the person that violates this
94 chapter or the regulations promulgated thereunder;

95 (6) Any officer or employee of a federal agency or the state government or
96 any political subdivision thereof performing official duties;

97 (7) Railroads and other public utilities regulated by the state of Missouri,
98 or their subsidiaries or affiliated corporations, or to the officers or regular
99 employees thereof, unless performance of any of the acts described in subsection
100 1 of this section is in connection with the sale, purchase, lease or other
101 disposition of real estate or investment therein unrelated to the principal
102 business activity of such railroad or other public utility or affiliated or subsidiary
103 corporation thereof;

104 (8) Any bank, trust company, savings and loan association, credit union,
105 insurance company, mortgage banker, or farm loan association organized under
106 the laws of this state or of the United States when engaged in the transaction of
107 business on its own behalf and not for others;

108 (9) Any newspaper, magazine, periodical, Internet site, Internet
109 communications, or any form of communications regulated or licensed by the
110 Federal Communications Commission or any successor agency or commission
111 whereby the advertising of real estate is incidental to its operation;

112 (10) Any developer selling Missouri land owned by the developer;

113 (11) Any employee acting on behalf of a nonprofit community, or regional
114 economic development association, agency or corporation which has as its
115 principal purpose the general promotion and economic advancement of the
116 community at large, provided that such entity:

117 (a) Does not offer such property for sale, lease, rental or exchange on
118 behalf of another person or entity;

119 (b) Does not list or offer or agree to list such property for sale, lease,
120 rental or exchange; or

121 (c) Receives no fee, commission or compensation, either monetary or in
122 kind, that is directly related to sale or disposal of such properties. An economic

123 developer's normal annual compensation shall be excluded from consideration as
124 commission or compensation related to sale or disposal of such properties; or

125 (12) Any neighborhood association, as that term is defined in section
126 441.500, RSMo, that without compensation, either monetary or in kind, provides
127 to prospective purchasers or lessors of property the asking price, location, and
128 contact information regarding properties in and near the association's
129 neighborhood, including any publication of such information in a newsletter,
130 Internet site, or other medium.

339.020. It shall be unlawful for any person, partnership, **limited**
2 **partnership, limited liability company,** association, **professional**
3 **corporation,** or corporation, foreign or domestic, to act as a real estate broker,
4 **real estate broker-salesperson,** or real estate salesperson, or to advertise or
5 assume to act as such without a license first procured from the commission.

339.030. A corporation, partnership, **limited partnership, limited**
2 **liability company, professional corporation,** or association shall be granted
3 a **broker's, broker-salesperson's, or salesperson's** license when **the**
4 **required fee is paid and:**

5 (1) For a real estate **broker** individual licenses have been issued to
6 every member, **general partner, associate, manager, member,** or officer of
7 such partnership, **limited partnership, limited liability company,**
8 association, **professional corporation,** or corporation who actively participates
9 in its brokerage business and to every person, **partnership, limited**
10 **partnership, limited liability company, professional corporation, or**
11 **corporation** who acts as a salesperson for such partnership, **limited**
12 **partnership, limited liability company,** association, **professional**
13 **corporation,** or corporation [and when the required fee is paid.], or

14 (2) For a real estate **broker-salesperson** when an individual
15 **broker-salesperson** license has been issued to every **general partner,**
16 **associate, manager, member, or officers** of such partnership, **limited**
17 **partnership, limited liability company, association, professional**
18 **corporation, or corporation** who acts as a **broker-salesperson,** and
19 individual salesperson licenses have been issued to all general
20 **partners, associates, managers, members, or officers** of such
21 **partnership, limited partnership, limited liability company, association,**
22 **professional corporation, or corporation** who act as salesperson, or

23 (3) For a real estate salesperson when individual salesperson

24 **licenses have been issued to all general partners, associates, managers,**
25 **members, or officers of such partnership, limited partnership, limited**
26 **liability company, association, professional corporation, or corporation**
27 **who act as a salesperson.**

339.040. 1. Licenses shall be granted only to persons who present, and
2 corporations, associations, [or] partnerships, **limited partnerships and**
3 **limited liability companies** whose officers, **professional corporations,**
4 **managers,** associates, [or] **general partners, or members who actively**
5 **participate in such entity's brokerage, broker-salesperson, or**
6 **salesperson business** present, satisfactory proof to the commission that they:

- 7 (1) Are persons of good moral character; and
 - 8 (2) Bear a good reputation for honesty, integrity, and fair dealing; and
 - 9 (3) Are competent to transact the business of a broker or salesperson in
- 10 such a manner as to safeguard the interest of the public.

11 2. In order to determine an applicant's qualifications to receive a license
12 under sections 339.010 to 339.180 and sections 339.710 to 339.860, the
13 commission shall hold oral or written examinations at such times and places as
14 the commission may determine.

15 3. Each applicant for a broker or salesperson license shall be at least
16 eighteen years of age and shall pay the broker examination fee or the salesperson
17 examination fee.

18 4. Each applicant for a broker license shall be required to have
19 satisfactorily completed the salesperson license examination prescribed by the
20 commission. For the purposes of this section only, the commission may permit
21 a person who is not associated with a licensed broker to take the salesperson
22 examination.

23 5. Each application for a broker license shall include a certificate from the
24 applicant's broker or brokers that the applicant has been actively engaged in the
25 real estate business as a licensed salesperson for at least two years immediately
26 preceding the date of application, and shall include a certificate from a school
27 accredited by the commission under the provisions of section 339.045 that the
28 applicant has, within six months prior to the date of application, successfully
29 completed the prescribed broker curriculum or broker correspondence course
30 offered by such school, except that the commission may waive all or part of the
31 requirements set forth in this subsection when an applicant presents proof of
32 other educational background or experience acceptable to the commission. **Each**

33 **application for a broker-salesperson license shall include evidence of**
34 **the current broker license held by the applicant.**

35 6. Each application for a salesperson license shall include a certificate
36 from a school accredited by the commission under the provisions of section
37 339.045 that the applicant has, within six months prior to the date of application,
38 successfully completed the prescribed salesperson curriculum or salesperson
39 correspondence course offered by such school, except that the commission may
40 waive all or part of the educational requirements set forth in this subsection
41 when an applicant presents proof of other educational background or experience
42 acceptable to the commission.

43 7. The commission may issue a temporary work permit pending final
44 review and printing of the license to an applicant who appears to have satisfied
45 the requirements for licenses. The commission may, at its discretion, withdraw
46 the work permit at any time.

47 8. Every active broker, **broker-salesperson**, salesperson, officer,
48 **manager**, **general** partner, **member** or associate shall provide upon request to
49 the commission evidence that during the two years preceding he or she has
50 completed twelve hours of real estate instruction in courses approved by the
51 commission. The commission may, by rule and regulation, provide for individual
52 waiver of this requirement.

53 9. Each entity that provides continuing education required under the
54 provisions of subsection 8 of this section may make available instruction courses
55 that the entity conducts through means of distance delivery. The commission
56 shall by rule set standards for such courses. The commission may by regulation
57 require the individual completing such distance-delivered course to complete an
58 examination on the contents of the course. Such examination shall be designed
59 to ensure that the licensee displays adequate knowledge of the subject matter of
60 the course, and shall be designed by the entity producing the course and approved
61 by the commission.

62 10. In the event of the death or incapacity of a licensed broker, or of one
63 or more of the licensed **general** partners, officers, **managers**, **members** or
64 associates of a real estate partnership, **limited partnership**, **limited liability**
65 **company**, **professional corporation**, corporation, or association whereby the
66 affairs of the broker, partnership, [or] **limited partnership**, **limited liability**
67 **company**, **professional corporation**, corporation, or **association** cannot be
68 carried on, the commission may issue, without examination or fee, to the legal

69 representative or representatives of the deceased or incapacitated individual, or
70 to another individual approved by the commission, a temporary broker license
71 which shall authorize such individual to continue for a period to be designated
72 by the commission to transact business for the sole purpose of winding up the
73 affairs of the broker, partnership [or], **limited partnership, limited liability**
74 **company, professional corporation, corporation, or association** under the
75 supervision of the commission.

339.080. 1. The commission may refuse to examine or issue a license to
2 any person known by it to be guilty of any of the acts or practices specified in
3 subsection 2 of section 339.100, or to any person previously licensed whose license
4 has been revoked, or may refuse to issue a license to any association [or],
5 partnership, **corporation, professional corporation, limited partnership,**
6 **or limited liability company** of which such person is a [member] **manager,**
7 **officer or general partner, or in which as a member, partner or**
8 **associates such person has or exercises a controlling interest either**
9 **directly or indirectly**, or to any corporation of which such person is an officer
10 or in which as a stockholder such person has or exercises a controlling interest
11 either directly or indirectly.

12 2. Any person denied a license or the right to be examined shall be so
13 notified by the commission in writing stating the reasons for denial or refusal to
14 examine and informing the person so denied of his right to file a complaint with
15 the administrative hearing commission in accordance with the applicable
16 provisions of sections 621.015 to 621.198, RSMo, and the rules promulgated
17 thereunder. All notices hereunder shall be sent by registered or certified mail to
18 the last known address of the applicant.

339.110. The commission may refuse to issue a license to any person who
2 is known by it to have been found guilty of forgery, embezzlement, obtaining
3 money under false pretenses, extortion, criminal conspiracy to defraud, or other
4 like offense, or to any association [or], partnership, **corporation, professional**
5 **corporation, limited partnership, or limited liability company** of which
6 [the person is a member] **such person is a manager, officer or general**
7 **partner, or in which as a member, partner or associate such person has**
8 **or exercises a controlling interest either directly or indirectly**, or to any
9 corporation of which [the] **such** person is an officer or in which as a stockholder
10 [the] **such** person has or exercises a controlling interest either directly or
11 indirectly.

339.160. No person, partnership, **limited partnership, limited liability company, professional corporations,** corporation[,] or association engaged within this state in the business or acting in the capacity of a real estate broker, **real estate broker-salesperson** or real estate salesperson shall bring or maintain an action in any court in this state for the recovery of compensation for services rendered in the buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate without alleging and proving that such person, partnership, **limited partnership, limited liability company, professional corporation,** corporation[,] or association, **or its member, manager, officer, general partner or associate, as applicable,** was a licensed real estate broker, **broker-salesperson** or salesperson at the time when the alleged cause of action arose.

339.170. Any person or corporation, **professional corporation, partnership, limited partnership, limited liability company or association** knowingly violating any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall be guilty of a class B misdemeanor. Any officer or agent of a corporation, or **any member, manager, officer, associate, general partner** or agent of a partnership [or], association, **corporation, professional corporation, limited partnership, or limited liability company who actively participate in such entity's brokerage business,** who shall knowingly and personally participate in or be an accessory to any violation of sections 339.010 to 339.180 and sections 339.710 to 339.860, shall be guilty of a class B misdemeanor. This section shall not be construed to release any person from civil liability or criminal prosecution under any other law of this state. The commission may cause complaint to be filed for violation of section 339.020 in any court of competent jurisdiction, and perform such other acts as may be necessary to enforce the provisions hereof.

339.710. For purposes of sections 339.010 to 339.180, and sections 339.710 to 339.860, the following terms mean:

(1) "Adverse material fact", a fact related to the property not reasonably ascertainable or known to a party which negatively affects the value of the property. Adverse material facts may include matters pertaining to:

(a) Environmental hazards affecting the property;

(b) Physical condition of the property which adversely affects the value of the property;

(c) Material defects in the property;

10 (d) Material defects in the title to the property;

11 (e) Material limitation of the party's ability to perform under the terms
12 of the contract;

13 (2) "Affiliated licensee", any broker or salesperson who works under the
14 supervision of a designated broker;

15 (3) "Agent", a person or entity acting pursuant to the provisions of this
16 chapter;

17 (4) "Broker disclosure form", the current form prescribed by the
18 commission for presentation to a seller, landlord, buyer or tenant who has not
19 entered into a written agreement for brokerage services;

20 (5) "Brokerage relationship", the relationship created between a
21 designated broker, the broker's affiliated licensees, and a client relating to the
22 performance of services of a broker as defined in section 339.010, and sections
23 339.710 to 339.860. If a designated broker makes an appointment of an affiliated
24 licensee or affiliated licensees pursuant to section 339.820, such brokerage
25 relationships are created between the appointed licensee or licensees and the
26 client. Nothing in this subdivision shall:

27 (a) Alleviate the designated broker from duties of supervision of the
28 appointed licensee or licensees; or

29 (b) Alter the designated broker's underlying contractual agreement with
30 the client;

31 (6) "Client", a seller, landlord, buyer, or tenant who has entered into a
32 brokerage relationship with a licensee pursuant to sections 339.710 to 339.860;

33 (7) "Commercial real estate", any real estate other than real estate
34 containing one to four residential units or real estate classified as agricultural
35 and horticultural property for assessment purposes pursuant to section 137.016,
36 RSMo. Commercial real estate does not include single family residential units
37 including condominiums, townhouses, or homes in a subdivision when that real
38 estate is sold, leased, or otherwise conveyed on a unit-by-unit basis even though
39 the units may be part of a larger building or parcel of real estate containing more
40 than four units;

41 (8) "Commission", the Missouri real estate commission;

42 (9) "Confidential information", information obtained by the licensee from
43 the client and designated as confidential by the client, information made
44 confidential by sections 339.710 to 339.860 or any other statute or regulation, or
45 written instructions from the client unless the information is made public or

46 becomes public by the words or conduct of the client to whom the information
47 pertains or by a source other than the licensee;

48 (10) "Customer", an actual or potential seller, landlord, buyer, or tenant
49 in a real estate transaction in which a licensee is involved but who has not
50 entered into a brokerage relationship with the licensee;

51 (11) "Designated agent", a licensee named by a designated broker as the
52 limited agent of a client as provided for in section 339.820;

53 (12) "Designated broker", any individual licensed as a broker who is
54 operating pursuant to the definition of real estate broker as defined in section
55 339.010, or any individual licensed as a broker who is appointed by a partnership,
56 **limited partnership**, association, limited liability corporation, **professional**
57 **corporation**, or a corporation engaged in the real estate brokerage business to
58 be responsible for the acts of the partnership, **limited partnership**, association,
59 limited liability [corporation,] **company**, **professional corporation** or
60 corporation. Every real estate **broker** partnership, **limited partnership**,
61 association, [or] limited liability [corporation] **company**, **professional**
62 **corporation** or corporation shall appoint a designated broker;

63 (13) "Designated transaction broker", a licensee named by a designated
64 broker or deemed appointed by a designated broker as the transaction broker for
65 a client pursuant to section 339.820;

66 (14) "Dual agency", a form of agency which may result when an agent
67 licensee or someone affiliated with the agent licensee represents another party
68 to the same transaction;

69 (15) "Dual agent", a limited agent who, with the written consent of all
70 parties to a contemplated real estate transaction, has entered into an agency
71 brokerage relationship, and not a transaction brokerage relationship, with and
72 therefore represents both the seller and buyer or both the landlord and tenant;

73 (16) "Exclusive brokerage agreement", means a written brokerage
74 agreement which provides that the broker has the sole right, through the broker
75 or through one or more affiliated licensees, to act as the exclusive limited agent,
76 representative, or transaction broker of the client or customer that meets the
77 requirements of section 339.780;

78 (17) "Licensee", a real estate broker or salesperson as defined in section
79 339.010;

80 (18) "Limited agent", a licensee whose duties and obligations to a client
81 are those set forth in sections 339.730 to 339.750;

82 (19) "Ministerial acts", those acts that a licensee may perform for a person
83 or entity that are informative in nature and do not rise to the level which
84 requires the creation of a brokerage relationship. Examples of these acts include,
85 but are not limited to:

86 (a) Responding to telephone inquiries by consumers as to the availability
87 and pricing of brokerage services;

88 (b) Responding to telephone inquiries from a person concerning the price
89 or location of property;

90 (c) Attending an open house and responding to questions about the
91 property from a consumer;

92 (d) Setting an appointment to view property;

93 (e) Responding to questions of consumers walking into a licensee's office
94 concerning brokerage services offered on particular properties;

95 (f) Accompanying an appraiser, inspector, contractor, or similar third
96 party on a visit to a property;

97 (g) Describing a property or the property's condition in response to a
98 person's inquiry;

99 (h) Showing a customer through a property being sold by an owner on his
100 or her own behalf; or

101 (i) Referral to another broker or service provider;

102 (20) "Residential real estate", all real property improved by a structure
103 that is used or intended to be used primarily for residential living by human
104 occupants and that contains not more than four dwelling units or that contains
105 single dwelling units owned as a condominium or in a cooperative housing
106 association, and vacant land classified as residential property. The term
107 "cooperative housing association" means an association, whether incorporated or
108 unincorporated, organized for the purpose of owning and operating residential
109 real property in Missouri, the shareholders or members of which, by reason of
110 their ownership of a stock or membership certificate, a proprietary lease, or other
111 evidence of membership, are entitled to occupy a dwelling unit pursuant to the
112 terms of a proprietary lease or occupancy agreement;

113 (21) "Single agent", a licensee who has entered into a brokerage
114 relationship with and therefore represents only one party in a real estate
115 transaction. A single agent may be one of the following:

116 (a) "Buyer's agent", which shall mean a licensee who represents the buyer
117 in a real estate transaction;

118 (b) "Landlord's agent", which shall mean a licensee who represents a
119 landlord in a leasing transaction;

120 (c) "Seller's agent", which shall mean a licensee who represents the seller
121 in a real estate transaction; and

122 (d) "Tenant's agent", which shall mean a licensee who represents the
123 tenant in a leasing transaction;

124 (22) "Subagent", a designated broker, together with the broker's affiliated
125 licensees, engaged by another designated broker, together with the broker's
126 affiliated or appointed affiliated licensees, to act as a limited agent for a client,
127 or a designated broker's unappointed affiliated licensees engaged by the
128 designated broker, together with the broker's appointed affiliated licensees, to act
129 as a limited agent for a client. A subagent owes the same obligations and
130 responsibilities to the client pursuant to sections 339.730 to 339.740 as does the
131 client's designated broker;

132 (23) "Transaction broker", any licensee acting pursuant to sections
133 339.710 to 339.860, who:

134 (a) Assists the parties to a transaction without an agency or fiduciary
135 relationship to either party and is, therefore, neutral, serving neither as an
136 advocate or advisor for either party to the transaction;

137 (b) Assists one or more parties to a transaction and who has not entered
138 into a specific written agency agreement to represent one or more of the parties;
139 or

140 (c) Assists another party to the same transaction either solely or through
141 licensee affiliates. Such licensee shall be deemed to be a transaction broker and
142 not a dual agent, provided that, notice of assumption of transaction broker status
143 is provided to the buyer and seller immediately upon such default to transaction
144 broker status, to be confirmed in writing prior to execution of the contract.

**339.845. If the commission receives a notice of delinquent taxes
2 from the director of revenue under the provisions of section 324.010
3 regarding a real estate broker or salesperson, the commission shall
4 immediately send a copy of such notice to the real estate broker with
5 which the real estate broker or salesperson is associated.**

452.340. 1. In a proceeding for dissolution of marriage, legal separation
2 or child support, the court may order either or both parents owing a duty of
3 support to a child of the marriage to pay an amount reasonable or necessary for
4 the support of the child, including an award retroactive to the date of filing the

5 petition, without regard to marital misconduct, after considering all relevant
6 factors including:

- 7 (1) The financial needs and resources of the child;
- 8 (2) The financial resources and needs of the parents;
- 9 (3) The standard of living the child would have enjoyed had the marriage
10 not been dissolved;
- 11 (4) The physical and emotional condition of the child, and the child's
12 educational needs;
- 13 (5) The child's physical and legal custody arrangements, including the
14 amount of time the child spends with each parent and the reasonable expenses
15 associated with the custody or visitation arrangements; and
- 16 (6) The reasonable work-related child care expenses of each parent.

17 2. The obligation of the parent ordered to make support payments shall
18 abate, in whole or in part, for such periods of time in excess of thirty consecutive
19 days that the other parent has voluntarily relinquished physical custody of a
20 child to the parent ordered to pay child support, notwithstanding any periods of
21 visitation or temporary physical and legal or physical or legal custody pursuant
22 to a judgment of dissolution or legal separation or any modification thereof. In
23 a IV-D case, the family support division may determine the amount of the
24 abatement pursuant to this subsection for any child support order and shall
25 record the amount of abatement in the automated child support system record
26 established pursuant to chapter 454, RSMo. If the case is not a IV-D case and
27 upon court order, the circuit clerk shall record the amount of abatement in the
28 automated child support system record established in chapter 454, RSMo.

29 3. Unless the circumstances of the child manifestly dictate otherwise and
30 the court specifically so provides, the obligation of a parent to make child support
31 payments shall terminate when the child:

- 32 (1) Dies;
- 33 (2) Marries;
- 34 (3) Enters active duty in the military;
- 35 (4) Becomes self-supporting, provided that the custodial parent has
36 relinquished the child from parental control by express or implied consent;
- 37 (5) Reaches age eighteen, unless the provisions of subsection 4 or 5 of this
38 section apply; or
- 39 (6) Reaches age twenty-one, unless the provisions of the child support
40 order specifically extend the parental support order past the child's twenty-first

41 birthday for reasons provided by subsection 4 of this section.

42 4. If the child is physically or mentally incapacitated from supporting
43 himself and insolvent and unmarried, the court may extend the parental support
44 obligation past the child's eighteenth birthday.

45 5. If when a child reaches age eighteen, the child is enrolled in and
46 attending a secondary school program of instruction, the parental support
47 obligation shall continue, if the child continues to attend and progresses toward
48 completion of said program, until the child completes such program or reaches
49 age twenty-one, whichever first occurs. If the child is enrolled in an institution
50 of vocational or higher education not later than October first following graduation
51 from a secondary school or completion of a graduation equivalence degree
52 program and so long as the child enrolls for and completes at least twelve hours
53 of credit each semester, not including the summer semester, at an institution of
54 vocational or higher education and achieves grades sufficient to reenroll at such
55 institution, the parental support obligation shall continue until the child
56 completes his or her education, or until the child reaches the age of twenty-one,
57 whichever first occurs. To remain eligible for such continued parental support,
58 at the beginning of each semester the child shall submit to each parent a
59 transcript or similar official document provided by the institution of vocational
60 or higher education which includes the courses the child is enrolled in and has
61 completed for each term, the grades and credits received for each such course, and
62 an official document from the institution listing the courses which the child is
63 enrolled in for the upcoming term and the number of credits for each such
64 course. When enrolled in at least twelve credit hours, if the child receives failing
65 grades in half or more of his or her courseload in any one semester, payment of
66 child support may be terminated and shall not be eligible for
67 reinstatement. Upon request for notification of the child's grades by the
68 noncustodial parent, the child shall produce the required documents to the
69 noncustodial parent within thirty days of receipt of grades from the education
70 institution. If the child fails to produce the required documents, payment of child
71 support may terminate without the accrual of any child support arrearage and
72 shall not be eligible for reinstatement. If the circumstances of the child
73 manifestly dictate, the court may waive the October first deadline for enrollment
74 required by this subsection. If the child is enrolled in such an institution, the
75 child or parent obligated to pay support may petition the court to amend the
76 order to direct the obligated parent to make the payments directly to the child.

77 As used in this section, an "institution of vocational education" means any
78 postsecondary training or schooling for which the student is assessed a fee and
79 attends classes regularly. "Higher education" means any community college,
80 college, or university at which the child attends classes regularly. A child who
81 has been diagnosed with a developmental disability, as defined in section 630.005,
82 RSMo, or whose physical disability or diagnosed health problem limits the child's
83 ability to carry the number of credit hours prescribed in this subsection, shall
84 remain eligible for child support so long as such child is enrolled in and attending
85 an institution of vocational or higher education, and the child continues to meet
86 the other requirements of this subsection. A child who is employed at least
87 fifteen hours per week during the semester may take as few as nine credit hours
88 per semester and remain eligible for child support so long as all other
89 requirements of this subsection are complied with.

90 6. The court shall consider ordering a parent to waive the right to claim
91 the tax dependency exemption for a child enrolled in an institution of vocational
92 or higher education in favor of the other parent if the application of state and
93 federal tax laws and eligibility for financial aid will make an award of the
94 exemption to the other parent appropriate.

95 7. The general assembly finds and declares that it is the public policy of
96 this state that frequent, continuing and meaningful contact with both parents
97 after the parents have separated or dissolved their marriage is in the best
98 interest of the child except for cases where the court specifically finds that such
99 contact is not in the best interest of the child. In order to effectuate this public
100 policy, a court with jurisdiction shall enforce visitation, custody and child support
101 orders in the same manner. A court with jurisdiction may abate, in whole or in
102 part, any past or future obligation of support and may transfer the physical and
103 legal or physical or legal custody of one or more children if it finds that a parent
104 has, without good cause, failed to provide visitation or physical and legal or
105 physical or legal custody to the other parent pursuant to the terms of a judgment
106 of dissolution, legal separation or modifications thereof. The court shall also
107 award, if requested and for good cause shown, reasonable expenses, attorney's
108 fees and court costs incurred by the prevailing party.

109 8. The Missouri supreme court shall have in effect a rule establishing
110 guidelines by which any award of child support shall be made in any judicial or
111 administrative proceeding. Said guidelines shall contain specific, descriptive and
112 numeric criteria which will result in a computation of the support obligation. The

113 guidelines shall address how the amount of child support shall be calculated
114 when an award of joint physical custody results in the child or children spending
115 substantially equal time with both parents. The Missouri supreme court shall
116 publish child support guidelines and specifically list and explain the relevant
117 factors and assumptions that were used to calculate the child support
118 guidelines. Any rule made pursuant to this subsection shall be reviewed by the
119 promulgating body not less than once every four years to ensure that its
120 application results in the determination of appropriate child support award
121 amounts.

122 9. There shall be a rebuttable presumption, in any judicial or
123 administrative proceeding for the award of child support, that the amount of the
124 award which would result from the application of the guidelines established
125 pursuant to subsection 8 of this section is the correct amount of child support to
126 be awarded. A written finding or specific finding on the record in a judicial or
127 administrative proceeding that the application of the guidelines would be unjust
128 or inappropriate in a particular case, after considering all relevant factors,
129 including the factors set out in subsection 1 of this section, is required if
130 requested by a party and shall be sufficient to rebut the presumption in the
131 case. The written finding or specific finding on the record shall detail the specific
132 relevant factors that required a deviation from the application of the guidelines.

133 10. Pursuant to this or any other chapter, when a court determines the
134 amount owed by a parent for support provided to a child by another person, other
135 than a parent, prior to the date of filing of a petition requesting support, or when
136 the director of the family support division establishes the amount of state debt
137 due pursuant to subdivision (2) of subsection 1 of section 454.465, RSMo, the
138 court or director shall use the guidelines established pursuant to subsection 8 of
139 this section. The amount of child support resulting from the application of the
140 guidelines shall be applied retroactively for a period prior to the establishment
141 of a support order and the length of the period of retroactivity shall be left to the
142 discretion of the court or director. There shall be a rebuttable presumption that
143 the amount resulting from application of the guidelines under subsection 8 of this
144 section constitutes the amount owed by the parent for the period prior to the date
145 of the filing of the petition for support or the period for which state debt is being
146 established. In applying the guidelines to determine a retroactive support
147 amount, when information as to average monthly income is available, the court
148 or director may use the average monthly income of the noncustodial parent, as

149 averaged over the period of retroactivity, in determining the amount of presumed
150 child support owed for the period of retroactivity. The court or director may enter
151 a different amount in a particular case upon finding, after consideration of all
152 relevant factors, including the factors set out in subsection 1 of this section, that
153 there is sufficient cause to rebut the presumed amount.

154 11. The obligation of a parent to make child support payments may be
155 terminated as follows:

156 (1) Provided that the **state case registry** or child support order contains
157 the child's date of birth, the obligation shall be deemed terminated without
158 further judicial or administrative process when the child reaches age twenty-one
159 if the child support order does not specifically require payment of child support
160 beyond age twenty-one for reasons provided by subsection 4 of this section;

161 (2) The obligation shall be deemed terminated without further judicial or
162 administrative process when the parent receiving child support furnishes a sworn
163 statement or affidavit notifying the obligor parent of the child's emancipation in
164 accordance with the requirements of subsection 4 of section 452.370, and a copy
165 of such sworn statement or affidavit is filed with the court which entered the
166 order establishing the child support obligation, or the **family support** division
167 [of child support enforcement] **for an order entered pursuant to section**
168 **454.470**;

169 (3) The obligation shall be deemed terminated without further judicial or
170 administrative process when the parent paying child support files a sworn
171 statement or affidavit with the court which entered the order establishing the
172 child support obligation, or the family support division **for an order entered**
173 **pursuant to section 454.470**, stating that the child is emancipated and reciting
174 the factual basis for such statement; which statement or affidavit is served by the
175 court or division, **as applicable**, on the child support obligee; and which is either
176 acknowledged and affirmed by the child support obligee in writing, or which is
177 not responded to in writing within thirty days of receipt by the child support
178 obligee;

179 (4) The obligation shall be terminated as provided by this subdivision by
180 the court which entered the order establishing the child support obligation, or the
181 family support division **for an order entered pursuant to section 454.470**,
182 when the parent paying child support files a sworn statement or affidavit with
183 the court which entered the order establishing the child support obligation, or the
184 family support division, **as applicable**, stating that the child is emancipated and

185 reciting the factual basis for such statement; and which statement or affidavit is
186 served by the court or division, **as applicable**, on the child support obligee. If
187 the obligee denies the statement or affidavit, the court or division shall thereupon
188 treat the sworn statement or affidavit as a [motion to modify the support
189 obligation pursuant to section 452.370 or section 454.496, RSMo,] **request for**
190 **hearing** and shall proceed to hear and adjudicate such [motion] **request for**
191 **hearing** as provided by law; provided that the court may require the payment of
192 a deposit as security for court costs and any accrued court costs, as provided by
193 law, in relation to such [motion to modify.] **request for hearing. When the**
194 **division receives a request for hearing, the hearing shall be held in the**
195 **manner provided by section 454.475.**

196 12. The court may enter a judgment terminating child support pursuant
197 to subdivisions (1) to (3) of subsection 11 of this section without necessity of a
198 court appearance by either party. The clerk of the court shall mail a copy of a
199 judgment terminating child support entered pursuant to subsection 11 of this
200 section on both the obligor and obligee parents. The supreme court may
201 promulgate uniform forms for sworn statements and affidavits to terminate
202 orders of child support obligations for use pursuant to subsection 11 of this
203 section and subsection 4 of section 452.370.

452.377. 1. For purposes of this section and section 452.375, "relocate" or
2 "relocation" means a change in the principal residence of a child for a period of
3 ninety days or more, but does not include a temporary absence from the principal
4 residence.

5 2. Notice of a proposed relocation of the residence of the child, or any
6 party entitled to custody or visitation of the child, shall be given in writing by
7 certified mail, return receipt requested, to any party with custody or visitation
8 rights. Absent exigent circumstances as determined by a court with jurisdiction,
9 written notice shall be provided at least sixty days in advance of the proposed
10 relocation. The notice of the proposed relocation shall include the following
11 information:

12 (1) The intended new residence, including the specific address and mailing
13 address, if known, and if not known, the city;

14 (2) The home telephone number of the new residence, if known;

15 (3) The date of the intended move or proposed relocation;

16 (4) A brief statement of the specific reasons for the proposed relocation of
17 a child, if applicable; and

18 (5) A proposal for a revised schedule of custody or visitation with the
19 child, if applicable.

20 3. A party required to give notice of a proposed relocation pursuant to
21 subsection 2 of this section has a continuing duty to provide a change in or
22 addition to the information required by this section as soon as such information
23 becomes known.

24 4. In exceptional circumstances where the court makes a finding that the
25 health or safety of any adult or child would be unreasonably placed at risk by the
26 disclosure of the required identifying information concerning a proposed
27 relocation of the child, the court may order that:

28 (1) The specific residence address and telephone number of the child,
29 parent or person, and other identifying information shall not be disclosed in the
30 pleadings, notice, other documents filed in the proceeding or the final order
31 except for an in camera disclosure;

32 (2) The notice requirements provided by this section shall be waived to the
33 extent necessary to protect the health or safety of a child or any adult; or

34 (3) Any other remedial action the court considers necessary to facilitate
35 the legitimate needs of the parties and the best interest of the child.

36 5. The court shall consider a failure to provide notice of a proposed
37 relocation of a child as:

38 (1) A factor in determining whether custody and visitation should be
39 modified;

40 (2) A basis for ordering the return of the child if the relocation occurs
41 without notice; and

42 (3) Sufficient cause to order the party seeking to relocate the child to pay
43 reasonable expenses and attorneys fees incurred by the party objecting to the
44 relocation.

45 6. If the parties agree to a revised schedule of custody and visitation for
46 the child, which includes a parenting plan, they may submit the terms of such
47 agreement to the court with a written affidavit signed by all parties with custody
48 or visitation assenting to the terms of the agreement, and the court may order the
49 revised parenting plan and applicable visitation schedule without a hearing.

50 7. The residence of the child may be relocated sixty days after providing
51 notice, as required by this section, unless a parent files a motion seeking an order
52 to prevent the relocation within thirty days after receipt of such notice. Such
53 motion shall be accompanied by an affidavit setting forth the specific factual basis

54 supporting a prohibition of the relocation. The person seeking relocation shall
55 file a response to the motion within fourteen days, unless extended by the court
56 for good cause, and include a counter-affidavit setting forth the facts in support
57 of the relocation as well as a proposed revised parenting plan for the child.

58 8. If relocation of the child is proposed, a third party entitled by court
59 order to legal custody of or visitation with a child and who is not a parent may
60 file a cause of action to obtain a revised schedule of legal custody or visitation,
61 but shall not prevent a relocation.

62 9. The party seeking to relocate shall have the burden of proving that the
63 proposed relocation is made in good faith and is in the best interest of the child.

64 10. If relocation is permitted:

65 (1) The court shall order contact with the nonrelocating party including
66 custody or visitation and telephone access sufficient to assure that the child has
67 frequent, continuing and meaningful contact with the nonrelocating party unless
68 the child's best interest warrants otherwise; and

69 (2) The court shall specify how the transportation costs will be allocated
70 between the parties and adjust the child support, as appropriate, considering the
71 costs of transportation.

72 11. After August 28, 1998, every court order establishing or modifying
73 custody or visitation shall include the following language: "Absent exigent
74 circumstances as determined by a court with jurisdiction, you, as a party to this
75 action, are ordered to notify, in writing by certified mail, return receipt requested,
76 and at least sixty days prior to the proposed relocation, each party to this action
77 of any proposed relocation of the principal residence of the child, including the
78 following information:

79 (1) The intended new residence, including the specific address and mailing
80 address, if known, and if not known, the city;

81 (2) The home telephone number of the new residence, if known;

82 (3) The date of the intended move or proposed relocation;

83 (4) A brief statement of the specific reasons for the proposed relocation of
84 the child; and

85 (5) A proposal for a revised schedule of custody or visitation with the
86 child.

87 Your obligation to provide this information to each party continues as long as you
88 or any other party by virtue of this order is entitled to custody of a child covered
89 by this order. Your failure to obey the order of this court regarding the proposed

90 relocation may result in further litigation to enforce such order, including
91 contempt of court. In addition, your failure to notify a party of a relocation of the
92 child may be considered in a proceeding to modify custody or visitation with the
93 child. Reasonable costs and attorney fees may be assessed against you if you fail
94 to give the required notice. **The residence of the child may be relocated**
95 **sixty days after providing notice, as required in this section, unless a**
96 **parent files a motion seeking an order to prevent the relocation within**
97 **thirty days after receipt of such notice. Such motion shall be**
98 **accompanied by an affidavit setting forth the specific factual basis**
99 **supporting a prohibition of the relocation. The person seeking**
100 **relocation shall file a response to the motion within fourteen days,**
101 **unless extended by the court for good cause, and include a counter-**
102 **affidavit setting forth the facts in support of the relocation as well as**
103 **a proposed revised parenting plan for the child."**

104 12. Violation of the provisions of this section or a court order under this
105 section may be deemed a change of circumstance under section 452.410, allowing
106 the court to modify the prior custody decree. In addition, the court may utilize
107 any and all powers relating to contempt conferred on it by law or rule of the
108 Missouri supreme court.

109 13. Any party who objects in good faith to the relocation of a child's
110 principal residence shall not be ordered to pay the costs and attorney's fees of the
111 party seeking to relocate.

452.430. Any pleadings, other than the interlocutory or final judgment **or**
2 **any modification thereof**, in a dissolution of marriage [or], legal separation,
3 **or modification proceeding** filed prior to August 28, 2009, shall be subject to
4 inspection only by the parties [or], an attorney of record [or upon order of the
5 court for good cause shown, or by], the family support division within the
6 department of social services when services are being provided under section
7 454.400, [RSMo.] **a person or designee of a person licensed and acting**
8 **under chapter 381 who shall keep any information obtained**
9 **confidential, except as necessary to the performance of functions**
10 **required by chapter 381 or upon order of the court for good cause**
11 **shown. Such persons may receive or make copies of documents without**
12 **the clerk being required to redact the Social Security number, unless**
13 **the court specifically orders the clerk to do otherwise.** The clerk shall
14 redact the Social Security number from any **copy of a judgment [or pleading] or**

15 **satisfaction of judgment** before releasing the **copy of the** interlocutory or
16 final judgment **or satisfaction of judgment** to the public.

454.425. 1. The **family support** division [of child support enforcement]
2 shall render child support services authorized pursuant to this chapter to persons
3 who are not recipients of public assistance as well as to such recipients. Services
4 may be provided to children, custodial parents, noncustodial parents and other
5 persons entitled to receive support. An application may be required by the
6 division for services and fees may be charged by the division pursuant to 42
7 U.S.C. section 654 and federal regulations. Services provided under a state plan
8 shall be made available to residents of other states on the same terms as
9 residents of this state. If a family receiving services ceases to receive assistance
10 under a state program funded under Part A of Title IV of the Social Security Act,
11 the division shall provide appropriate notice to such family, and services shall
12 continue under the same terms and conditions as that provided to other
13 individuals under the state plan, except that an application for continued services
14 shall not be required and the requirement for payment of fees shall not apply to
15 the family.

16 2. The division shall charge a fee in the amount of sixty dollars
17 to an obligee or obligor who requests that the division review a support
18 order under subdivision (13) of subsection 2 of section 454.400 for the
19 purpose of determining whether a modification to the support order is
20 appropriate. After the division completes a review, the fee is
21 nonrefundable, regardless of the outcome of the review. The division
22 shall waive the review fee if the requestor has an individual gross
23 monthly income of less than two hundred fifty percent of the federal
24 poverty level based on a household size of one, if the requestor
25 currently or formerly received assistance under a state program funded
26 under Part A of Title IV of the federal Social Security Act or if the fee
27 is otherwise prohibited by state or federal law.

28 3. The division shall charge a fee to an obligee or obligor who
29 requests that the division modify a support order after the division has
30 determined that a modification action is appropriate and that such
31 modification action can be completed under this chapter. After the
32 division completes the modification action, the fee is nonrefundable,
33 regardless of the outcome of the modification action. The division shall
34 waive the modification fee if the requestor has an individual gross

35 **monthly income of less than two hundred fifty percent of the federal**
36 **poverty level based on a household size of one, if the requestor**
37 **currently or formerly received assistance under a state program funded**
38 **under Part A of Title IV of the federal Social Security Act or if the fee**
39 **is otherwise prohibited by state or federal law. When appropriate to**
40 **charge a modification fee under this section, the modification fee shall**
41 **be in the amount of:**

42 **(1) One hundred seventy-five dollars if the requestor has an**
43 **individual gross monthly income equal to or greater than two hundred**
44 **fifty percent of the federal poverty level but less than four hundred**
45 **percent of the federal poverty level based on a household size of one;**
46 **or**

47 **(2) Three hundred fifty dollars if the requestor has an individual**
48 **gross monthly income equal to or greater than four hundred percent of**
49 **the federal poverty level based on a household size of one.**

50 **4. The division shall charge a fee in the amount of twenty-five**
51 **dollars for submitting past-due child and spousal support debts for**
52 **collection through federal income tax refund offset. The fee shall be**
53 **assessed only if the division collects support on a case through federal**
54 **income tax refund offset. The fee shall be assessed each time a federal**
55 **income tax intercept is distributed to a case receiving services under**
56 **this chapter. The obligor shall receive credit against the support order**
57 **for the entire federal income tax refund offset. The fee shall be**
58 **collected from the obligee by deducting the fee from the amount**
59 **payable to the obligee. The division shall waive the federal income tax**
60 **refund offset fee if the obligee currently or formerly received**
61 **assistance under a state program funded under Part A of Title IV of the**
62 **federal Social Security Act or if the fee is otherwise prohibited by state**
63 **or federal law.**

64 **5. The division shall have the authority to change the amount of**
65 **the review fee and modification fee under this section by**
66 **administrative rule under the authority of section 454.400. The amount**
67 **of the review fee and modification fee established by the division by**
68 **rule shall be based on actual standardized cost in accordance with 45**
69 **CFR Section 302.33.**

454.475. 1. Hearings provided for in this section shall be conducted

2 pursuant to chapter 536, RSMo, by administrative hearing officers designated by
3 the Missouri department of social services. The hearing officer shall provide the
4 parents, the person having custody of the child, or other appropriate agencies or
5 their attorneys with notice of any proceeding in which support obligations may
6 be established or modified. The department shall not be stayed from enforcing
7 and collecting upon the administrative order during the hearing process and
8 during any appeal to the courts of this state, unless specifically enjoined by court
9 order.

10 2. If no factual issue has been raised by the application for hearing, or the
11 issues raised have been previously litigated or do not constitute a defense to the
12 action, the director may enter an order without an evidentiary hearing, which
13 order shall be a final decision entitled to judicial review as provided in sections
14 536.100 to 536.140, RSMo.

15 3. After full and fair hearing, the hearing officer shall make specific
16 findings regarding the liability and responsibility, if any, of the alleged
17 responsible parent for the support of the dependent child, and for repayment of
18 accrued state debt or arrearages, and the costs of collection, and shall enter an
19 order consistent therewith. In making the determination of the amount the
20 parent shall contribute toward the future support of a dependent child, the
21 hearing officer shall [use the scale and formula for minimum support obligations
22 established by the department pursuant to section 454.480] **consider the**
23 **factors set forth in section 452.340.**

24 4. If the person who requests the hearing fails to appear at the time and
25 place set for the hearing, upon a showing of proper notice to that parent, the
26 hearing officer shall enter findings and order in accordance with the provisions
27 of the notice and finding of support responsibility unless the hearing officer
28 determines that no good cause therefor exists.

29 5. In contested cases, the findings and order of the hearing officer shall
30 be the decision of the director. Any parent or person having custody of the child
31 adversely affected by such decision may obtain judicial review pursuant to
32 sections 536.100 to 536.140, RSMo, by filing a petition for review in the circuit
33 court of proper venue within thirty days of mailing of the decision. Copies of the
34 decision or order of the hearing officer shall be mailed to any parent, person
35 having custody of the child and the division within fourteen days of issuance.

36 6. If a hearing has been requested, and upon request of a parent, a person
37 having custody of the child, the division or a IV-D agency, the director shall enter

38 a temporary order requiring the provision of child support pending the final
39 decision or order pursuant to this section if there is clear and convincing evidence
40 establishing a presumption of paternity pursuant to section 210.822, RSMo. In
41 determining the amount of child support, the director shall consider the factors
42 set forth in section 452.340, RSMo. The temporary order, effective upon filing
43 pursuant to section 454.490, is not subject to a hearing pursuant to this
44 section. The temporary order may be stayed by a court of competent jurisdiction
45 only after a hearing and a finding by the court that the order fails to comply with
46 rule 88.01.

454.515. 1. A judgment or order for child support or maintenance payable
2 in periodic installments shall not be a lien on the real estate of the person against
3 whom the judgment or order is rendered until the person entitled to receive
4 payments pursuant to the judgment or order, the division or IV-D agency files a
5 lien and the lien is recorded in the office of the circuit clerk of any county in this
6 state in which such real estate is situated in the manner provided for by the
7 supreme court and chapter 511, RSMo. Thereafter, the judgment shall become
8 a lien on all real property of the obligor in such county, owned by the obligor at
9 the time, or which the obligor may acquire afterwards and before the lien expires.

10 2. Liens pursuant to this section shall commence on the day filed and
11 shall continue for a period of three years. A judgment creditor, the division or
12 IV-D agency may revive a lien by filing another lien on or before each three-year
13 anniversary of the original judgment. At the time each lien is revived, all unpaid
14 installments shall remain a lien for the subsequent three-year period.

15 3. The lien shall state the name, last known address of the obligor, the
16 **last four digits of the** obligor's Social Security number, the obligor's date of
17 birth, if known, and the amount of support or maintenance due and unpaid.

18 4. A copy of the lien shall be mailed by the person entitled to receive
19 payments under the judgment or order, the division or IV-D agency to the last
20 known address of the obligor.

21 5. The person entitled to receive payments pursuant to the judgment or
22 order, the division or IV-D agency may execute a partial or total release of the
23 liens created by this section, either generally or as to specific property.

454.517. 1. The director, IV-D agency or the obligee may cause a lien for
2 unpaid and delinquent child or spousal support to be placed upon any workers'
3 compensation benefits payable to an obligor delinquent in child or spousal
4 support payments.

5 2. No such lien shall be effective unless and until a written notice is filed
6 with the director of the division of workers' compensation. The notice shall
7 contain the name and address of the delinquent obligor, the Social Security
8 number of the obligor, if known, the name of the obligee, and the amount of
9 delinquent child or spousal support.

10 3. Notice of lien shall not be filed unless the delinquent child or spousal
11 support obligation exceeds one hundred dollars.

12 4. Any person or persons, firm or firms, corporation or corporations,
13 including an insurance carrier, making any payment of workers' compensation
14 benefits to such obligor or to such obligor's attorneys, heirs or legal
15 representative, after receipt of such notice, as defined in subsection 5 of this
16 section, shall be liable to the obligee or, if support has been assigned pursuant
17 to subsection 2 of section 208.040, RSMo, to the state or IV-D agency in an
18 amount equal to the lesser of the workers' compensation benefits paid or
19 delinquent child or spousal support. In such event, the lien may be enforced by
20 a suit at law against any person or persons, firm or firms, corporation or
21 corporations making the workers' compensation benefit payment.

22 5. Upon the filing of a notice pursuant to this section, the director of the
23 division of workers' compensation shall mail to the obligor and to all attorneys
24 and insurance carriers of record, a copy of the notice. The obligor, attorneys and
25 insurance carriers shall be deemed to have received the notice within five days
26 of the mailing of the notice by the director of the division of workers'
27 compensation. The lien described in this section shall attach to all workers'
28 compensation benefits which are thereafter payable.

29 **6. A notice issued by the IV-D agency of this state shall advise**
30 **the obligor of the procedures to contest the lien pursuant to section**
31 **454.475 on the grounds that such lien is improper due to a mistake of**
32 **fact by requesting a hearing within thirty days of the mailing date of**
33 **the notice. At such a hearing the certified copy of the court order and**
34 **the sworn or certified statement of arrearages shall constitute prima**
35 **facie evidence that the director's order is valid and enforceable. If a**
36 **prima facie case is established, the obligor may only assert mistake of**
37 **fact as a defense. For purposes of this section, "mistake of fact" means**
38 **an error in the amount of the overdue support or an error as to the**
39 **identity of the obligor. The obligor shall have the burden of proof on**
40 **such issues.**

41 [6.] 7. In cases which are not IV-D cases, to cause a lien pursuant to the
42 provisions of this section the obligee or the obligor's attorney shall file notice of
43 the lien with the lienholder or payor. This notice shall have attached a certified
44 copy of the court order with all modifications and a sworn statement by the
45 obligee or a certified statement from the court attesting to or certifying the
46 amount of arrearages.

 454.548. In addition to any fees imposed pursuant to section 454.425 and
2 if allowed by federal law, the division [may] **shall** charge and collect a fee of ten
3 dollars from support received through the payment center for each order for every
4 year or portion of a year during which payments are received by the payment
5 center. Such fee shall be used to reimburse the state for the costs associated with
6 processing support payments.

 454.557. 1. A current support obligation shall not be recorded in the
2 records maintained in the automated child support system in the following cases:

3 (1) In a IV-D case with a support order pursuant to section 454.465 or
4 454.470 when the division determines that payments for current support are no
5 longer due and should no longer be made to the payment center. The division
6 shall notify by first class mail the obligor and obligee under the support orders
7 that payments shall no longer be made to the payment center, and any
8 withholding of income shall be terminated unless it is subsequently determined
9 by the division or court having jurisdiction that payments will continue. The
10 division's determination shall terminate the division's support order, but shall not
11 terminate any obligation of support established by court order. The obligor and
12 obligee may contest the decision of the division to terminate the division's support
13 order by requesting a hearing within thirty days of the mailing of the notice
14 provided pursuant to this section. The hearing shall comply with the provisions
15 of section 454.475;

16 (2) In [a] **all [IV-D case] cases** with a support order entered by a court
17 when the court that issued the support order terminates such order [and notifies
18 the division]. The division shall also cease enforcing the order if no past support
19 is due; or

20 (3) In all cases when the [child is twenty-two years of age, unless a court
21 orders support to continue. The obligor or obligee may contest the decision of the
22 division to terminate accruing support orders by requesting a hearing within
23 thirty days of the mailing of notice by the division. The hearing shall comply
24 with the provisions of section 454.475. The issue at the hearing, if any, shall be

25 limited to a mistake of fact as to the age of the child or the existence of a court
26 order requiring support after the age of twenty-two] **obligation of a parent to**
27 **make child support payments is deemed terminated pursuant to**
28 **subdivisions (1) to (4) of subsection 11 of section 452.340.**

29 2. Nothing in this section shall affect or terminate the amount due for
30 unpaid past support.

454.1003. 1. A court or the director of the division of child support
2 enforcement may issue an order, or in the case of a business, professional or
3 occupational license, only a court may issue an order, suspending an obligor's
4 license and ordering the obligor to refrain from engaging in a licensed activity in
5 the following cases:

6 (1) When the obligor is not making child support payments in accordance
7 with a [court] **support** order and owes an arrearage in an amount greater than
8 or equal to three months support payments or two thousand five hundred dollars,
9 whichever is less, as of the date of service of a notice of intent to suspend such
10 license; or

11 (2) When the obligor or any other person, after receiving appropriate
12 notice, fails to comply with a subpoena of a court or the director concerning
13 actions relating to the establishment of paternity, or to the establishment,
14 modification or enforcement of support orders, or order of the director for genetic
15 testing.

16 2. In any case but a IV-D case, upon the petition of an obligee alleging the
17 existence of an arrearage, a court with jurisdiction over the support order may
18 issue a notice of intent to suspend a license. In a IV-D case, the director, or a
19 court at the request of the director, may issue a notice of intent to suspend.

20 3. The notice of intent to suspend a license shall be served on the obligor
21 personally or by certified mail. If the proposed suspension of license is based on
22 the obligor's support arrearage, the notice shall state that the obligor's license
23 shall be suspended sixty days after service unless, within such time, the obligor:

24 (1) Pays the entire arrearage stated in the notice;

25 (2) Enters into and complies with a payment plan approved by the court
26 or the division; or

27 (3) Requests a hearing before the court or the director.

28 4. In a IV-D case, the notice shall advise the obligor that hearings are
29 subject to the contested case provisions of chapter 536, RSMo.

30 5. If the proposed suspension of license is based on the alleged failure to

31 comply with a subpoena relating to paternity or a child support proceeding, or
32 order of the director for genetic testing, the notice of intent to suspend shall
33 inform the person that such person's license shall be suspended sixty days after
34 service, unless the person complies with the subpoena or order.

35 6. If the obligor fails to comply with the terms of repayment agreement,
36 a court or the division may issue a notice of intent to suspend the obligor's
37 license.

38 7. In addition to the actions to suspend or withhold licenses pursuant to
39 this chapter, a court or the director of the division of child support enforcement
40 may restrict such licenses in accordance with the provisions of this chapter.

**455.007. Notwithstanding any other provision of law to the
2 contrary, the public interest exception to the mootness doctrine shall
3 apply to an appeal of a full order of protection which has expired.**

455.501. As used in sections 455.500 to 455.538, the following terms
2 mean:

3 (1) "Abuse", any physical injury, sexual abuse, or emotional abuse
4 inflicted on a child other than by accidental means by an adult household
5 member, or stalking of a child. Discipline including spanking, administered in
6 a reasonable manner shall not be construed to be abuse;

7 (2) "Adult household member", any person [~~eighteen~~] **seventeen** years
8 of age or older or an emancipated child who resides with the child in the same
9 dwelling unit;

10 (3) "Child", any person under [~~eighteen~~] **seventeen** years of age;

11 (4) "Court", the circuit or associate circuit judge or a family court
12 commissioner;

13 (5) "Ex parte order of protection", an order of protection issued by the
14 court before the respondent has received notice of the petition or an opportunity
15 to be heard on it;

16 (6) "Full order of protection", an order of protection issued after a hearing
17 on the record where the respondent has received notice of the proceedings and
18 has had an opportunity to be heard;

19 (7) "Order of protection", either an ex parte order of protection or a full
20 order of protection;

21 (8) "Petitioner", a person authorized to file a verified petition under the
22 provisions of sections 455.503 and 455.505;

23 (9) "Respondent", the adult household member, emancipated child or

24 person stalking the child against whom a verified petition has been filed;

25 (10) "Stalking", when an adult purposely and repeatedly engages in an
26 unwanted course of conduct with regard to a child that causes another adult to
27 believe that a child would suffer alarm by the conduct. As used in this
28 subdivision:

29 (a) "Course of conduct" means a pattern of conduct composed of repeated
30 acts over a period of time, however short, that serves no legitimate purpose. Such
31 conduct may include, but is not limited to, following the other person or unwanted
32 communication or contact;

33 (b) "Repeated" means two or more incidents evidencing a continuity of
34 purpose; and

35 (c) "Alarm" means to cause fear of danger of physical harm;

36 (11) "Victim", a child who is alleged to have been abused by an adult
37 household member.

484.053. The director of revenue is hereby authorized, pursuant to a
2 cooperative agreement with the supreme court, to develop procedures which shall
3 permit the clerk of the supreme court to furnish the director, at least once each
4 year, with a list of persons currently licensed to practice law in this state. [If any
5 such person is delinquent on any state taxes or has failed to file state income tax
6 returns in the last three years and such person has not paid in protest or
7 commenced a reasonably founded dispute with such liability, the director shall
8 notify the clerk of the supreme court that such person has such delinquency or
9 failure to file.] **The director shall notify the clerk, in such form as the**
10 **clerk may specify, of any person on the list who is deficient in payment**
11 **of any state taxes and has not paid the tax in protest, commenced a**
12 **reasonably founded dispute as to the deficiency, or entered an**
13 **agreement with the director to satisfy the deficiency.**

484.350. Recognizing that Missouri children have a right to adequate and
2 effective representation in child welfare cases, [the September 17, 1996,] Missouri
3 supreme court standards for representation by guardians ad litem shall be
4 adopted statewide and each circuit shall devise a plan for implementation which
5 takes into account the individual needs of their circuit as well as the negative
6 impact that excessive caseloads have upon effectiveness of counsel. These plans
7 shall be approved by the supreme court en banc and fully implemented by July
8 1, 2011.

494.455. 1. Each county or city not within a county may elect to

2 compensate its jurors pursuant to subsection 2 of this section except as otherwise
3 provided in [subsection] **subsections 3 and 4** of this section.

4 2. Each grand and petit juror shall receive six dollars per day, for every
5 day he or she may actually serve as such, and seven cents for every mile he or she
6 may necessarily travel going from his or her place of residence to the courthouse
7 and returning, to be paid from funds of the county or a city not within a
8 county. The governing body of each county or a city not within a county may
9 authorize additional daily compensation and mileage allowance for jurors, which
10 additional compensation shall be paid from the funds of the county or a city not
11 within a county. The governing body of each county or a city not within a county
12 may authorize additional daily compensation and mileage allowance for jurors
13 attending a coroner's inquest. Jurors may receive the additional compensation
14 and mileage allowance authorized by this subsection only if the governing body
15 of the county or the city not within a county authorizes the additional
16 compensation. The provisions of this subsection authorizing additional
17 compensation shall terminate upon the issuance of a mandate by the Missouri
18 supreme court which results in the state of Missouri being obligated or required
19 to pay any such additional compensation even if such additional compensation is
20 formally approved or authorized by the governing body of a county or a city not
21 within a county. Provided that a county or a city not within a county authorizes
22 daily compensation payable from county or city funds for jurors who serve in that
23 county pursuant to this subsection in the amount of at least six dollars per day
24 in addition to the amount required by this subsection, a person shall receive an
25 additional six dollars per day to be reimbursed by the state of Missouri so that
26 the total compensation payable shall be at least eighteen dollars, plus mileage for
27 each day that the person actually serves as a petit juror in a particular case; or
28 for each day that a person actually serves as a grand juror during a term of a
29 grand jury. The state shall reimburse the county for six dollars of the additional
30 juror compensation provided by this subsection.

31 3. In any county of the first classification without a charter form of
32 government and with a population of at least two hundred thousand inhabitants,
33 no grand or petit juror shall receive compensation for the first two days of service,
34 but shall receive fifty dollars per day for the third day and each subsequent day
35 he or she may actually serve as such, and seven cents for every mile he or she
36 may necessarily travel going from his or her place of residence to the courthouse
37 and returning, to be paid from funds of the county.

38 4. In any county with a charter form of government and with
39 more than six hundred thousand but fewer than seven hundred
40 thousand inhabitants no grand or petit juror shall receive
41 compensation for the first day of service. For the second day of service
42 each grand and petit juror shall receive six dollars per day. For the
43 third and each subsequent day he or she may actually serve as such,
44 each grand and petit juror shall receive forty dollars per day. No petit
45 or grand juror shall receive pay for mileage for any day of service.

46 5. When each panel of jurors summoned and attending court has
47 completed its service, the board of jury commissioners shall cause to be submitted
48 to the governing body of the county or a city not within a county a statement of
49 fees earned by each juror. Within thirty days of the submission of the statement
50 of fees, the governing body shall cause payment to be made to those jurors
51 summoned the fees earned during their service as jurors.

 525.233. The notice of garnishment and the writ of sequestration shall
2 contain **only the last four digits of** the federal taxpayer identification number,
3 when available, on the judgment debtor. When the **last four digits of the**
4 federal taxpayer identification number is omitted from the notice of garnishment
5 or the writ of sequestration the garnishee shall not be held liable for withholding
6 from the incorrect debtor by the creditor garnishing the funds. The creditor shall
7 not have any action against the garnishee, when the **last four digits of the**
8 federal taxpayer identification number is omitted from the notice of garnishment
9 or the writ of sequestration or does not match the **last four digits of the** federal
10 taxpayer identification, for failure to withhold from any person the amount stated
11 in the notice of garnishment or the writ of sequestration, except to serve a notice
12 of garnishment or writ of sequestration for the original amount to the garnishee
13 with the correct **last four digits of the** federal taxpayer identification number.

 537.296. In any action for private nuisance where the amount in
2 controversy exceeds one million dollars, if any party requests the court or jury to
3 visit the property alleged to be affected by the nuisance, the court or jury [shall]
4 may visit the property.

 537.800. Sections 537.800 to 537.810 shall be known as the
2 "Missouri False Claims Act".

 537.802. 1. As used in this section the following terms shall
2 mean:

3 (1) "Claim", includes any request or demand, whether under a

4 contract or otherwise, for money or property which is made to a
5 contractor, grantee, or other recipient if the government provides any
6 portion of the money or property which is requested or demanded, or
7 if the government will reimburse such contractor, grantee, or other
8 recipient for any portion of the money or property which is requested
9 or demanded;

10 (2) "Government", the state of Missouri, or any political
11 subdivision of the state, including but not limited to any public school
12 district, public charter school of the state, or municipal corporation;

13 (3) "Knowing" and "knowingly", that a person, with respect to
14 information:

15 (a) Has actual knowledge of the information;

16 (b) Acts in deliberate ignorance of the truth or falsity of the
17 information; or

18 (c) Acts in reckless disregard of the truth or falsity of the
19 information, and no proof of specific intent to defraud is required;

20 (4) "Person", any individual, entity, corporation, partnership or
21 association, officer or employee of any state or private entity.

22 2. Any person who:

23 (1) Knowingly presents, or causes to be presented, a false or
24 fraudulent claim for payment or approval to an officer or employee of
25 the government;

26 (2) Knowingly makes, uses, or causes to be made or used, a false
27 record or statement to get a false or fraudulent claim paid or approved
28 by the government;

29 (3) Conspires to defraud the government by getting a false or
30 fraudulent claim allowed or paid;

31 (4) Has possession, custody, or control of property or money
32 used, or to be used, by the government and, intending to defraud the
33 government or willfully to conceal the property, delivers, or causes to
34 be delivered, less property than the amount for which the person
35 receives a certificate or receipt;

36 (5) Authorized to make or deliver a document certifying receipt
37 of property used, or to be used, by the government and, intending to
38 defraud the government, makes or delivers the receipt without knowing
39 that the information on the receipt is true;

40 **(6) Knowingly buys, or receives as a pledge of an obligation or**
41 **debt, public property from an officer, employee, or agent of the**
42 **government who lawfully may not sell or pledge the property;**

43 **(7) Knowingly makes, uses, or causes to be made or used, a false**
44 **record or statement to conceal, avoid, or decrease an obligation to pay**
45 **or transmit money or property to the government; or**

46 **(8) Violates section 105.452, 105.454, 576.010, 576.020, 576.030,**
47 **576.040, 576.050, or 576.080;**

48 **shall be liable to the government affected for a civil penalty of not less**
49 **than ten thousand dollars and not more than one hundred thousand**
50 **dollars, plus three times the amount of damages which the government**
51 **sustains because of the act of that person, except that if the court finds**
52 **that:**

53 **(a) The person committing the violation of this subsection**
54 **furnished officials of the government entity responsible for**
55 **investigating false claims violations with all information known to such**
56 **person about the violation within thirty days after the date on which**
57 **the defendant first obtained the information;**

58 **(b) Such person fully cooperated with any government**
59 **investigation of such violation; and**

60 **(c) At the time such person furnished the government with the**
61 **information about the violation, no criminal prosecution, civil action,**
62 **or administrative action had commenced under state law with respect**
63 **to such violation, and the person did not have actual knowledge of the**
64 **existence of an investigation into such violation;**

65 **the court may assess not less than two times the amount of damages**
66 **which the government sustains because of the act of the person. A**
67 **person violating this subsection shall also be liable to the government**
68 **for the costs of a civil action brought to recover any such penalty or**
69 **damages.**

70 **3. Any information furnished under paragraphs (a) to (c) of**
71 **subdivision (8) of subsection 2 of this section shall be exempt from**
72 **disclosure under this section.**

73 **4. This section does not apply to claims, records, or statements**
74 **made under any provisions applicable to state or local taxation.**

537.804. 1. The attorney general shall diligently investigate a

2 violation under section 537.802. If the attorney general finds that a
3 person has violated or is violating section 537.802, the attorney general
4 may bring a civil action under this section against the person.

5 2. (1) A person may bring a civil action for a violation of section
6 537.802 for the person and for the government. The action shall be
7 brought in the name of the government. The action may be dismissed
8 only if the court and the attorney general give written consent to the
9 dismissal and their reasons for consenting.

10 (2) A copy of the petition and written disclosure of substantially
11 all material evidence and information the person possesses shall be
12 served on the government under the Missouri Supreme Court rules of
13 civil procedure. The petition shall be filed in camera, shall remain
14 under seal for at least sixty days, and shall not be served on the
15 defendant until the court so orders. The government may elect to
16 intervene and proceed with the action within sixty days after it
17 receives both the petition and material evidence and information.

18 (3) The government may, for good cause shown, move the court
19 for extensions of time during which the petition remains under seal
20 under subdivision (2) of this subsection. Any such motions may be
21 supported by affidavits or other submissions in camera. The defendant
22 shall not be required to respond to any petition filed under this section
23 until thirty days after the petition is unsealed and served upon the
24 defendant under the Missouri Supreme Court rules of civil procedure.

25 (4) Before expiration of the sixty-day period or any extensions
26 obtained under subdivision (3) of this subsection, the government shall:

27 (a) Proceed with the action, in which case the action shall be
28 conducted by the government; or

29 (b) Notify the court that it declines to take over the action, in
30 which case the person bringing the action shall have the right to
31 conduct the action.

32 (5) When a person brings an action under this subsection, no
33 person other than the government may intervene or bring a related
34 action based on the facts underlying the pending action.

35 3. If the government proceeds with the action, it shall have the
36 primary responsibility for prosecuting the action, and shall not be
37 bound by an act of the person bringing the action. Such person shall

38 have the right to continue as a party to the action, subject to the
39 limitations set forth in subsection 4 of this section.

40 4. (1) The government may dismiss the action notwithstanding
41 the objections of the person initiating the action if the person has been
42 notified by the government of the filing of the motion and the court has
43 provided the person with an opportunity for a hearing on the motion.

44 (2) The government may settle the action with the defendant
45 notwithstanding the objections of the person initiating the action if the
46 court determines, after a hearing, that the proposed settlement is fair,
47 adequate, and reasonable under all the circumstances. Upon a showing
48 of good cause, such hearing may be held in camera.

49 (3) Upon a showing by the government that unrestricted
50 participation during the course of the litigation by the person initiating
51 the action would interfere with or unduly delay the government's
52 prosecution of the case, or would be repetitious, irrelevant, or for
53 purposes of harassment, the court may, in its discretion, impose
54 limitations on the person's participation, such as:

- 55 (a) Limiting the number of witnesses the person may call;
- 56 (b) Limiting the length of the testimony of such witnesses;
- 57 (c) Limiting the person's cross-examination of witnesses; or
- 58 (d) Limiting the participation by the person in the litigation.

59 (4) Upon a showing by the defendant that unrestricted
60 participation during the course of the litigation by the person initiating
61 the action would be for purposes of harassment or would cause the
62 defendant undue burden or unnecessary expense, the court may limit
63 the participation by the person in the litigation.

64 5. If the government elects not to proceed with the action, the
65 person who initiated the action shall have the right to conduct the
66 action. If the government so requests, it shall be served with copies of
67 all pleadings filed in the action and shall be supplied with copies of all
68 deposition transcripts, at the government's expense. When a person
69 proceeds with the action, the court, without limiting the status and
70 rights of the person initiating the action, may nevertheless permit the
71 government to intervene at a later date upon a showing of good cause.

72 6. Whether or not the government proceeds with the action, upon
73 a showing by the government that certain actions of discovery by the

74 person initiating the action would interfere with the government's
75 investigation or prosecution of a criminal or civil matter arising out of
76 the same facts, the court may stay such discovery for a period of not
77 more than sixty days. Such showing shall be conducted in camera. The
78 court may extend the sixty-day period upon a further showing in
79 camera that the government has pursued the criminal or civil
80 investigation or proceedings with reasonable diligence and any
81 proposed discovery in the civil action will interfere with the ongoing
82 criminal or civil investigation or proceedings.

83 7. Notwithstanding subsection 2 of this section, the government
84 may elect to pursue its claim through any alternate remedy available
85 to the government, including any administrative proceeding to
86 determine a civil money penalty. If any such alternate remedy is
87 pursued in another proceeding, the person initiating the action shall
88 have the same rights in such proceeding as such person would have had
89 if the action had continued under this section. Any finding of fact or
90 conclusion of law made in such other proceeding that has become final
91 shall be conclusive on all parties to an action under this section. For
92 purposes of the preceding sentence, a finding or conclusion is final if
93 it has been finally determined on appeal to the appropriate court of
94 this state, if all time for filing such an appeal with respect to the
95 finding or conclusion has expired, or if the finding or conclusion is not
96 subject to judicial review.

537.806. 1. If the government proceeds with an action brought
2 by a person under subsection 2 of section 537.804, such person shall,
3 subject to the second sentence of this subsection, receive at least fifteen
4 percent but not more than twenty-five percent of the proceeds of the
5 action or settlement of the claim, depending upon the extent to which
6 the person substantially contributed to the prosecution of the
7 action. Where the action is one which the court finds to be based
8 primarily on disclosures of specific information, other than information
9 provided by the person bringing the action, relating to allegations or
10 transactions in a criminal, civil, or administrative hearing, in a
11 legislative, administrative, or government report, hearing, audit, or
12 investigation, or from the news media, the court may award such sums
13 as it considers appropriate, but in no case more than ten percent of the

14 proceeds, taking into account the significance of the information and
15 the role of the person bringing the action in advancing the case to
16 litigation. Any payment to a person under the first or second sentence
17 of this subsection shall be made from the proceeds. Any such person
18 shall also receive an amount for reasonable expenses which the court
19 finds to have been necessarily incurred, plus reasonable attorneys' fees
20 and costs. All such expenses, fees, and costs shall be awarded against
21 the defendant.

22 2. If the government does not proceed with an action under
23 subsection 2 of section 537.804, the person bringing the action or
24 settling the claim shall receive an amount which the court decides is
25 reasonable for collecting the civil penalty and damages. The amount
26 shall not be less than twenty-five percent and not more than thirty
27 percent of the proceeds of the action or settlement and shall be paid
28 out of such proceeds. Such person shall also receive an amount for
29 reasonable expenses which the court finds to have been necessarily
30 incurred, plus reasonable attorneys' fees and costs. All such expenses,
31 fees, and costs shall be awarded against the defendant.

32 3. Whether or not the government proceeds with the action, if
33 the court finds that the action was brought by a person who planned
34 and initiated the violation of section 537.802 upon which the action was
35 brought, then the court may, to the extent the court considers
36 appropriate, reduce the share of the proceeds of the action which the
37 person would otherwise receive under subsection 1 or 2 of this section,
38 taking into account the role of that person in advancing the case to
39 litigation and any relevant circumstances pertaining to the violation.
40 If the person bringing the action is convicted of criminal conduct
41 arising from his or her role in the violation of section 537.802, that
42 person shall be dismissed from the civil action and shall not receive
43 any share of the proceeds of the action. Such dismissal shall not
44 prejudice the right of the government to continue the action,
45 represented by the attorney general.

46 4. If the government does not proceed with the action and the
47 person bringing the action conducts the action, the court may award to
48 the defendant its reasonable attorneys' fees and expenses if the
49 defendant prevails in the action and the court finds that the claim of

50 the person bringing the action was clearly frivolous, clearly vexatious,
51 or brought primarily for purposes of harassment.

52 5. (1) No court shall have jurisdiction over an action brought by
53 a former or present member of the armed forces under subsection 2 of
54 section 537.804 against a member of the armed forces arising out of
55 such person's service in the armed forces.

56 (2) No court shall have jurisdiction over an action brought under
57 subsection 2 of section 537.804 against a member of the legislature, a
58 member of the judiciary, or a senior executive branch official if the
59 action is based on evidence or information known to the government
60 when the action was brought. For purposes of this subdivision "senior
61 executive branch official" means the governor, lieutenant governor,
62 secretary of state, attorney general, state treasurer, state auditor,
63 director, division director, or counsel of any government agency, or
64 members of any state board, commission, or council.

65 (3) In no event may a person bring an action under subsection
66 2 of section 537.804 which is based upon allegations or transactions
67 which are the subject of a civil suit or an administrative civil money
68 penalty proceeding in which the government is already a party.

69 (4) No court shall have jurisdiction over an action under section
70 537.804 based upon the public disclosure of allegations or transactions
71 in a criminal, civil, or administrative hearing, in a legislative,
72 administrative, or government report, hearing, audit, or investigation,
73 or from the news media, unless the action is brought by the attorney
74 general or the person bringing the action is an original source of the
75 information.

76 6. As used in this section "original source" means an individual
77 who has direct and independent knowledge of the information on which
78 the allegations are based and has voluntarily provided the information
79 to the government before filing an action under section 537.804 which
80 is based on the information.

81 7. The government is not liable for expenses which a person
82 incurs in bringing an action under section 537.804.

537.808. 1. In civil actions brought under section 537.804 by the
2 state of Missouri, the provisions of sections 537.800 to 537.810 shall
3 apply.

4 **2. Any employee who is discharged, demoted, suspended,**
5 **threatened, harassed, or in any other manner discriminated against in**
6 **the terms and conditions of employment by his or her employer because**
7 **of lawful acts done by the employee on behalf of the employee or others**
8 **in furtherance of an action under section 537.804, including**
9 **investigation for, initiation of, testimony for, or assistance in an action**
10 **filed or to be filed under section 537.804, shall be entitled to all relief**
11 **necessary to make the employee whole. Such relief shall include**
12 **reinstatement with the same seniority status such employee would have**
13 **had but for the discrimination, two times the amount of back pay,**
14 **interest on the back pay, and compensation for any special damages**
15 **sustained as a result of the discrimination, including litigation costs**
16 **and reasonable attorneys' fees. An employee may bring an action in the**
17 **appropriate circuit court for the relief provided in this subsection.**

537.810. Sections 537.800 to 537.808 shall not apply to hospitals
2 **and medical providers governed under section 208.164 or sections**
3 **191.900 to 191.910.**

 542.286. 1. **Except for a warrant to search for the blood of a**
2 **person involved in an accident,** a warrant to search a person or any movable
3 thing may be executed in any part of the state where the person or thing is found
4 if, subsequent to the filing of the application, the person or thing moves or is
5 taken out of the territorial jurisdiction of the judge issuing the warrant

6 **2. A warrant to search for the blood of a person involved in an**
7 **accident may be executed in any part of the state where the person**
8 **whose blood is the subject of the warrant is found regardless of when**
9 **the person moves or is taken out of the territorial jurisdiction of the**
10 **court issuing the warrant.**

11 **3. All other search warrants shall be executed within the territorial**
12 **jurisdiction of the court out of which the warrant issued and within the territorial**
13 **jurisdiction of the officer executing the warrant.**

 559.036. 1. A term of probation commences on the day it is
2 imposed. Multiple terms of Missouri probation, whether imposed at the same
3 time or at different times, shall run concurrently. Terms of probation shall also
4 run concurrently with any federal or other state jail, prison, probation or parole
5 term for another offense to which the defendant is or becomes subject during the
6 period, unless otherwise specified by the Missouri court.

7 2. The court may terminate a period of probation and discharge the
8 defendant at any time before completion of the specific term fixed under section
9 559.016 if warranted by the conduct of the defendant and the ends of justice. The
10 court may extend the term of the probation, but no more than one extension of
11 any probation may be ordered except that the court may extend the term of
12 probation by one additional year by order of the court if the defendant admits he
13 or she has violated the conditions of probation or is found by the court to have
14 violated the conditions of his or her probation. Total time on any probation term,
15 including any extension shall not exceed the maximum term established in
16 section 559.016. Procedures for termination, discharge and extension may be
17 established by rule of court.

18 3. If the defendant violates a condition of probation at any time prior to
19 the expiration or termination of the probation term, the court may continue him
20 on the existing conditions, with or without modifying or enlarging the conditions
21 or extending the term, or, if such continuation, modification, enlargement or
22 extension is not appropriate, may revoke probation and order that any sentence
23 previously imposed be executed. If imposition of sentence was suspended, the
24 court may revoke probation and impose any sentence available under section
25 557.011, RSMo. The court may mitigate any sentence of imprisonment by
26 reducing the prison or jail term by all or part of the time the defendant was on
27 probation. The court may, upon revocation of probation, place an offender on a
28 second term of probation. Such probation shall be for a term of probation as
29 provided by section 559.016, notwithstanding any amount of time served by the
30 offender on the first term of probation.

31 4. Probation shall not be revoked without giving the probationer notice
32 and an opportunity to be heard on the issues of whether he violated a condition
33 of probation and, if he did, whether revocation is warranted under all the
34 circumstances.

35 5. The prosecuting or circuit attorney may file a motion to revoke
36 probation or at any time during the term of probation, the court may issue a
37 notice to the probationer to appear to answer a charge of a violation, and the
38 court may issue a warrant of arrest for the violation. Such notice shall be
39 personally served upon the probationer. The warrant shall authorize the return
40 of the probationer to the custody of the court or to any suitable detention facility
41 designated by the court. Upon the filing of the prosecutor's or circuit attorney's
42 motion or on the court's own motion, the court may immediately enter an order

43 suspending the period of probation and may order a warrant for the defendant's
44 arrest. The probation shall remain suspended until the court rules on the
45 prosecutor's or circuit attorney's motion, or until the court otherwise orders the
46 probation reinstated.

47 6. The power of the court to revoke probation shall extend for the duration
48 of the term of probation designated by the court and for any further period which
49 is reasonably necessary for the adjudication of matters arising before its
50 expiration, provided that some affirmative manifestation of an intent to conduct
51 a revocation hearing occurs prior to the expiration of the period and that every
52 reasonable effort is made to notify the probationer and to conduct the hearing
53 prior to the expiration of the period.

54 **7. Probation revocation proceedings are a part of the original**
55 **criminal case and therefore a defendant shall not be entitled to an**
56 **automatic change of judge in a probation revocation proceeding.**

565.035. 1. Whenever the death penalty is imposed in any case, and upon
2 the judgment becoming final in the trial court, the sentence shall be reviewed on
3 the record by the supreme court of Missouri. The circuit clerk of the court trying
4 the case, within ten days after receiving the transcript, shall transmit the entire
5 record and transcript to the supreme court together with a notice prepared by the
6 circuit clerk and a report prepared by the trial judge. The notice shall set forth
7 the title and docket number of the case, the name of the defendant and the name
8 and address of his attorney, a narrative statement of the judgment, the offense,
9 and the punishment prescribed. The report by the judge shall be in the form of
10 a standard questionnaire prepared and supplied by the supreme court of
11 Missouri.

12 2. The supreme court of Missouri shall consider the punishment as well
13 as any errors enumerated by way of appeal.

14 3. With regard to the sentence, the supreme court shall determine:

15 (1) Whether the sentence of death was imposed under the influence of
16 passion, prejudice, or any other arbitrary factor; and

17 (2) Whether the evidence supports the jury's or judge's finding of a
18 statutory aggravating circumstance as enumerated in subsection 2 of section
19 565.032 and any other circumstance found;

20 (3) Whether the sentence of death is excessive or disproportionate to the
21 penalty imposed in similar cases, considering both the crime, the strength of the
22 evidence and the defendant.

23 4. Both the defendant and the state shall have the right to submit briefs
24 within the time provided by the supreme court, and to present oral argument to
25 the supreme court.

26 5. The supreme court shall include in its decision a reference to those
27 similar cases **where the death penalty was imposed** which it took into
28 consideration. In addition to its authority regarding correction of errors, the
29 supreme court, with regard to review of death sentences, shall be authorized to:

30 (1) Affirm the sentence of death; or

31 (2) Set the sentence aside and resentence the defendant to life
32 imprisonment without eligibility for probation, parole, or release except by act of
33 the governor; or

34 (3) Set the sentence aside and remand the case for retrial of the
35 punishment hearing. A new jury shall be selected or a jury may be waived by
36 agreement of both parties and then the punishment trial shall proceed in
37 accordance with this chapter, with the exception that the evidence of the guilty
38 verdict shall be admissible in the new trial together with the official transcript
39 of any testimony and evidence properly admitted in each stage of the original
40 trial where relevant to determine punishment.

41 6. There shall be an assistant to the supreme court, who shall be an
42 attorney appointed by the supreme court and who shall serve at the pleasure of
43 the court. The court shall accumulate the records of all cases in which the
44 sentence of death or life imprisonment without probation or parole was imposed
45 after May 26, 1977, or such earlier date as the court may deem appropriate. **The**
46 **supreme court is not required to consider cases where life**
47 **imprisonment without probation or parole was imposed for the purpose**
48 **of subsections 1 to 5 of this section.** The assistant shall provide the court
49 with whatever extracted information the court desires with respect thereto,
50 including but not limited to a synopsis or brief of the facts in the record
51 concerning the crime and the defendant. The court shall be authorized to employ
52 an appropriate staff, within the limits of appropriations made for that purpose,
53 and such methods to compile such data as are deemed by the supreme court to
54 be appropriate and relevant to the statutory questions concerning the validity of
55 the sentence. The office of the assistant to the supreme court shall be attached
56 to the office of the clerk of the supreme court for administrative purposes.

57 7. In addition to the mandatory sentence review, there shall be a right of
58 direct appeal of the conviction to the supreme court of Missouri. This right of

59 appeal may be waived by the defendant. If an appeal is taken, the appeal and
60 the sentence review shall be consolidated for consideration. The court shall
61 render its decision on legal errors enumerated, the factual substantiation of the
62 verdict, and the validity of the sentence.

Section B. Because immediate action is necessary to protect the citizens
2 of this state, the repeal and reenactment of section 452.430 of this act is deemed
3 necessary for the immediate preservation of the public health, welfare, peace and
4 safety, and is hereby declared to be an emergency act within the meaning of the
5 constitution, and the repeal and reenactment of section 452.430 of this act shall
6 be in full force and effect upon its passage and approval.

✓

Bill

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